

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 13, 2006**

AGENDA ITEM NO.: 9

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Landscaping Ordinance**

RECOMMENDATION: Approval of Landscaping Ordinance.

SUMMARY: The proposed Landscaping Ordinance will cover all properties within the City Limits zoned Multi-Family, Commercial, Industrial, properties requiring a Conditional Use Permit (CUP) in Single and Two-Family Residential Districts or the extension or construction of new City Streets. The purpose of the Landscaping Ordinance is to promote the public necessity, convenience, general welfare and good zoning practice by incorporating landscaping, screening and tree preservation requirements into the development review process. The goals are to provide landscaping requirements that will ensure development consistent with the goals of the Comprehensive Plan; reduce soil erosion; increase infiltration in permeable land areas to improve stormwater management; mitigate air, dust, noise and chemical pollution; reduce heat island effect; protect property values, provide buffers between incompatible uses; preserve existing natural vegetation as an integral part of the City and ensure that the City remains an attractive place to live, visit and work. The Planning Commission recommended adoption of the Landscaping Ordinance because:

- Existing landscaping sections of the Zoning Ordinance are outdated.
- Adoption of a revised landscaping ordinance is supported by the *Comprehensive Plan*.
- Adoption of a revised landscaping ordinance will benefit the environment.

At the May 9, 2006 work session the City Council directed City Staff to research the definition of "development /redevelopment". Section 35.1-11.5, Terms Beginning with D, (c) defines "development or to develop as "any man-made change to an improved or unimproved zoning lot, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. To "develop" is to create a development". A cross reference to this definition has been added to Section 35.1-25.1.2 Applicability, (b) of the proposed Landscaping Ordinance.

PRIOR ACTION(S):

February 16, 2006: Landscaping Ordinance Committee recommends Ordinance to Planning Commission.
March 9, 2006: Citizen Monitoring Committee work session on proposed Ordinance.
March 22, 2006: Planning Commission work session on proposed Ordinance.
April 12, 2006: Planning Division recommended adoption of the proposed Ordinance.
Planning Commission recommended adoption (7-0) of the proposed Ordinance.
May 9, 2006: City Council conducted work session on Landscaping Ordinance.

FISCAL IMPACT: N/A

CONTACT:

Tom Martin/ 455-3909

ATTACHMENT(S):

- Landscaping Ordinance Draft 05/30/06
- Existing Landscaping Ordinance with strikethroughs.
- Proposed/Existing Comparison Chart

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO ADOPT SECTIONS 35.1-25.1 THROUGH 35.1-25.16, PERTAINING TO THE CITY OF LYNCHBURG'S LANDSCAPING ORDINANCE, AND TO AMEND AND RE-ENACT SECTIONS 35.1-14, SITE PLAN REVIEW, SECTION 35.1-23, SUPPLEMENTARY REGULATIONS (BUILDING PROJECTIONS, SETBACKS, ETC.), SECTION 35.1-35, LOCAL NEIGHBORHOOD BUSINESS DISTRICTS, B-2, SECTION 35.1-38, GENERAL BUSINESS DISTRICT, B-5, SECTION 35.1-39, RESTRICTED INDUSTRIAL DISTRICTS, I-1, SECTION 35.1-43.2, COMMERCIAL CORRIDOR OVERLAY DISTRICT, CC, SECTION 35.1-43.3, SCENIC CORRIDOR OVERLAY DISTRICT, SC, SECTION 35.1-43.17, DEVELOPMENT STANDARDS FOR FLEXIBLE SPACE DEVELOPMENTS, SECTION 35.1-52.1, CEMETERIES AND COLUMBARIUMS, SECTION 35.1-54, CARE CENTERS, SECTION 35.1-56, CLUSTER DWELLINGS, CLUSTER DEVELOPMENT WITH TOWNHOUSE LOTS FOR SALE AND/OR CONDOMINIUMS, SECTION 35.1-56.1, GROUP HOMES, SECTION 35.1-60, KENNELS AND OTHER SMALL ANIMAL RAISING AND BOARDING, SECTION 35.1-62, MOBILE HOME PARKS, SECTION 35.1-64, NURSING HOMES, SECTION 35.1-69, RECREATION FACILITIES, PUBLIC OR COMMUNITY OWNED, SECTION 35.1-70.1, SANITARY OR SOLID WASTE FACILITIES, SECTION 35.1-71, SCHOOLS, COLLEGES, AND VOCATIONAL SCHOOLS, SECTION 35.1-73, THEATERS, DRIVE-INS, SECTION 35.1-74, TRAILER PARKS, CAMPGROUNDS.

1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG That in order to promote the public necessity, convenience, general welfare, and good zoning practice that Section 35.1-25.1 through 35.1-25.1.16 shall be enacted and is hereby adopted as follows:

Sec. 35.1-25.1. Landscaping.

It is the intent of the landscaping ordinance to promote the public necessity, convenience, general welfare and good zoning practice by incorporating landscaping, screening and tree preservation requirements into the development review process. The goals are to provide landscaping requirements that will: ensure development consistent with the goals of the comprehensive plan; reduce soil erosion; increase infiltration in permeable land areas to improve stormwater management, mitigate air, dust, noise, and chemical pollution; reduce heat island effect; protect property values, provide buffers between incompatible uses; preserve existing natural vegetation as an integral part of the city and ensure that the city remains an attractive place to live, visit and work.

Sec. 35.1-25.1.1. Severability clause.

As provided in Section 35.1-3, if any provision of the zoning ordinance regulating landscaping is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the zoning ordinance regulating landscaping and all of such provisions shall remain in full force and effect.

Sec. 35.1-25.1.2. Applicability.

(a) The provisions of this ordinance are applicable to the development or redevelopment of any property after the effective date of this ordinance and located in an R-4, R-5, B-1, B-2, B-3, B-4, B-5, B-6, I-1, I-2 or I-3 district or to any use requiring conditional use permit approval.

(b) When an existing use is expanded, enlarged, or redeveloped as defined in Section 35.1-11.5, (c) of the zoning ordinance only those portions of the property subject to the expansion, enlargement, or redevelopment are subject to the provisions of the landscaping ordinance.

(c) It is not the intent of this ordinance to regulate landscaping for one or two family dwellings.

Sec. 35.1-25.1.3. Definitions.

Buffer: An area of land, including landscaping, or combination of landscaping berms, solid fences and/or walls that is located between land uses of different character and is intended to mitigate negative impacts of the more intense use.

Caliper: Trunk diameter measured six (6) inches from the ground. If the caliper is greater than four (4) inches, the measurement is taken twelve (12) inches from the ground.

Decorative landscape stone: Stone that has natural or manmade distinguishing characteristics such as color and shape. Decorative landscape stone may be used as mulch.

Development area / disturbed area: All areas shown within the limits of clearing and grading on a site development plan.

Evergreen tree: A tree or shrub that has foliage that persists and stays green throughout the year.

Foundation planting: Trees and shrubs planted along and adjacent to the perimeter of a building.

Ground cover: Any evergreen or broadleaf plant that does not generally attain a mature height of more than one (1) foot, characterized by a growth habit in which the plant spreads across the ground to connect with other similar plants forming a continuous vegetative cover on the ground. Sod and seeding shall be considered an appropriate ground cover.

Heat island effect: An elevated temperature over an urban area caused by pavement, buildings, other infrastructure and pollutant emissions

Landscape island: An area containing required landscaping not less than one hundred eight (108) square feet for a parking row or two hundred sixteen (216) square feet for a parking bay.

Mulch: A protective covering, usually of organic matter placed around plants to prevent evaporation, root freezing and weed growth.

Naturalized planting area: Any area planted for bioretention containing native or indigenous species that mimics local natural surroundings and is allowed to grow undisturbed. Naturalized planting areas require minimal maintenance.

Ornamental tree: Deciduous tree that grows to a mature height of less than thirty (30) feet with flowering or other distinguishing characteristics.

Parking bay: Two (2) parking rows abutting one another.

Parking row: One (1) single line of parking spaces.

Raising: Providing vertical clearance under tree canopy by using appropriate pruning techniques.

Riprap: A permanent, large, loose angular stone generally used for erosion and sediment control in concentrated high velocity flow areas.

Screening: A method of visually shielding or obscuring items such as a structure, receptacle, parking area, equipment, or stormwater management pond by densely planted landscaping, or a combination of landscaping, berms, solid fences and/or walls.

Shade tree: Deciduous tree that grows to be more than thirty (30) feet at maturity and planted chiefly to provide shade from sunlight.

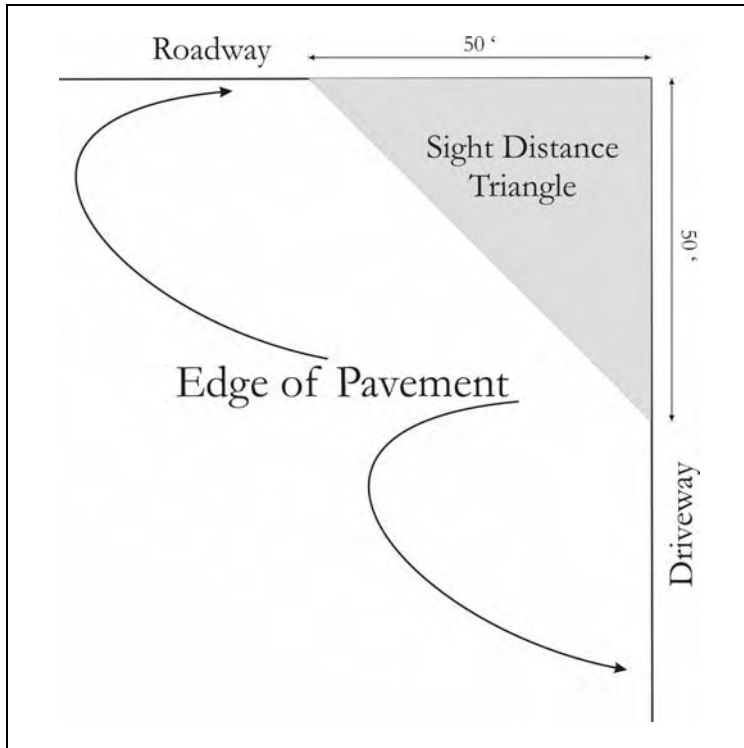
Shrub: A woody plant deciduous or evergreen that generally exhibits several erect, spreading stems with a bushy appearance growing to a height of no more than fifteen (15) feet.

Shrub small: A shrub with a minimum height of one (1) foot at planting.

Shrub medium: A shrub with a minimum height of two (2) feet at planting.

Shrub large: A shrub with a minimum height of three (3) feet at planting.

Sight distance triangle: A straight line with unobstructed view measured fifty (50) feet along the edge of pavement lines from their points of junction with points being three (3) feet above the pavement edge.



Sight Distance Triangle

Slope: The deviation of a surface from the horizontal.

Topping: An inappropriate practice of making heading cuts through a stem more than two (2) years old that drastically reduces tree height, destroys tree architecture and results in discoloration, decay of the cut stem, or death of the tree.

Water feature: A stormwater management structural measure such as a stormwater retention pond, bioretention, forebay, or landscape garden pond that is wet permanently or intermittently during rain events and contains landscaping that is hydric or water tolerant.

Sec. 35.1-25.1.4. General regulations.

(a) Landscaping within a sight distance triangle shall not include any evergreen trees, and shall not include shrubs exceeding three (3) feet in height above the ground at maturity. Tree limbs within a site distance triangle shall be raised to ensure visibility for motor vehicle safety, but in no case shall tree limbs be raised more than sixteen (16) feet above the ground.

- (b) When a determination of the number of trees or shrubs results in a fraction, any fraction shall be rounded up to count as one (1) tree or shrub.
- (c) Existing vegetation within the development area and at least three (3) inches in caliper that meets the requirements of the landscaping ordinance may be preserved and may be used to meet all or part of the landscaping requirements.
- (d) Removal of healthy trees eighteen (18) inches or greater in caliper is discouraged. For each healthy tree eighteen (18) inches or greater in caliper that is retained within the development area a credit of twelve (12) trees shall be given towards meeting the requirements of the landscaping ordinance.
- (e) All landscaped areas shall be covered with an appropriate ground cover, mulch, or decorative landscape stone. Where mulch or decorative landscape stone is used, it shall be installed to a depth of not less than two (2) to three (3) inches. The use of gravel and/or riprap is prohibited.
- (f) All slopes shall be covered with an appropriate ground cover. The use of riprap for ground cover on any slope visible from a public or private street, or residential district is prohibited.
- (g) All retaining walls visible from any public or private street or residential district shall be constructed of segmental block, brick, treated wood, stone or stamped and colored concrete that gives the appearance of brick or stone. Retaining walls that consist of creosote materials are prohibited. Retaining walls of other materials are permitted provided that they are supplemented with landscape material as follows:
- (1) Retaining walls less than eight (8) feet in height, one (1) large evergreen shrub per three (3) linear feet of wall.
- (2) Retaining walls eight (8) feet in height or greater, one (1) large evergreen shrub per three (3) linear feet of wall and one (1) ornamental tree per twenty (20) linear feet of wall.
- (h) All trees used to satisfy the requirements of the landscaping ordinance shall be in accordance with the city's master tree list. The city's master tree list shall be maintained by the city's urban forester. The city's urban forester may approve the substitution of a different species of tree in circumstances of disease, drought, or overhead utility lines.
- (i) No tree, shrub and/or ground cover contained on the invasive alien plant species of Virginia list as maintained by the department of conservation of Virginia (DCR) and the Virginia native plant society may be planted or used to satisfy any portion of the landscaping ordinance.
- (j) Where the planting of trees that have a height at twenty (20) year maturity would interfere with overhead utility lines, the Urban Forester shall as part of the site development plan approval require the substitution of a tree with lesser maturity height or allow placement of trees in a manner that will not interfere with overhead utility lines, provided that the general intent and purpose of the landscaping ordinance is met.
- (k) All disturbed areas not used for operations, including slopes shall be landscaped at the rate of twenty (20) trees per acre. Required trees may be any combination of deciduous or evergreen and may be placed in creative groupings.
- (l) Parking garages are subject to the regulations of Section 35.1-25.1.9, foundation plantings only.

Sec. 35.1-25.1.5. Landscaping plan required.

When required as part of a preliminary site development plan, a landscape plan shall indicate the following information:

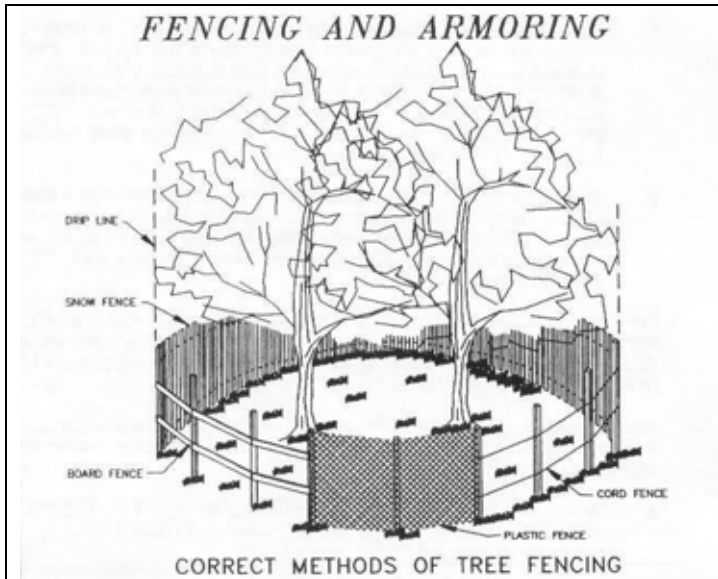
- (a) The location, size, height at planting, and botanical name of all required landscaping.

(b) The location, size, and botanical name of any existing landscaping proposed to be used or required to satisfy any portion of the landscaping ordinance.

(c) The dimensions of all required landscape islands.

When required as part of a final site development plan, a landscape plan shall indicate a, b and c above and the following additional information:

(d) A tree protection detail as specified in “STD & SPEC 3.38, Tree Preservation and Protection,” in the 1992 edition of the Virginia erosion and sediment control handbook for all landscaping proposed or required to be preserved to satisfy the requirements of the landscaping ordinance.



Tree Protection Detail

(e) A planting detail for all trees, shrubs, and ground cover used to satisfy the requirements of the landscaping ordinance.

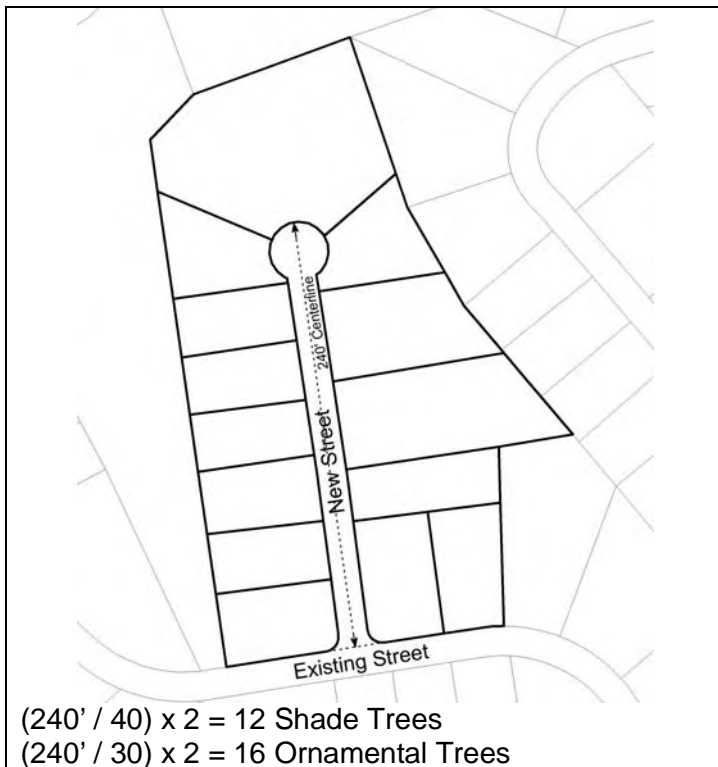
(f) A planting, fertilization, and watering schedule for all trees, shrubs and or ground cover used to satisfy the requirements of the landscaping ordinance. The schedule shall cover a period of one (1) year after installation of the required landscaping.

(g) A description of soil amendments necessary to support the growth of all required trees and shrubs.

Sec. 35.1-25.1.6. Residential street tree landscaping.

In the event of the subdivision of any land for residential purposes where it is proposed that new city streets will be dedicated or existing city streets will be extended to serve said subdivision the following landscaping requirements apply:

(a) Shade type trees shall be planted at the rate of two (2) trees for every forty (40) feet of the new street centerline or ornamental trees may be substituted at the rate of two (2) trees for every thirty (30) feet of the new street centerline.



Calculation of Street Trees for New Residential Subdivisions

- (b) Required landscaping shall be placed within the proposed right of way and no required landscaping shall be planted on any private property.
- (c) Trees shall be placed in a manner to prevent interference with driveways, drainage areas and/or utilities.
- (d) In order to prevent damage to trees, required landscaping installed prior to completion of construction of the subdivision shall be protected as provided in Section 35.1-25.1.5(d).
- (e) Prior to the acceptance of any new road by the city the developer shall do one (1) of the following:
 - (1) Install all required street trees.
 - (2) Post a performance bond for the amount of all required street trees, related materials and installation cost.
 - (3) At the discretion of the developer, a cash payment may be made to the city for all required street trees, related material and installation cost. At such time a cash payment is made to the city, installation of the required landscaping becomes the responsibility of the city's urban forester and landscaping shall be installed within a reasonable time period.

Sec. 35.1-25.1.7. Parking area landscaping.

Parking areas are subject to the following landscaping standards:

- (a) All parking rows and parking bays shall be capped with a landscaped island.
- (b) Parking areas with less than two hundred (200) parking spaces.
 - (1) One (1) shade type tree for every eight (8) parking spaces, planted within landscape islands, reasonably dispersed within the parking area so that no more than fifteen (15) to twenty (20) parking spaces exist between landscape islands.

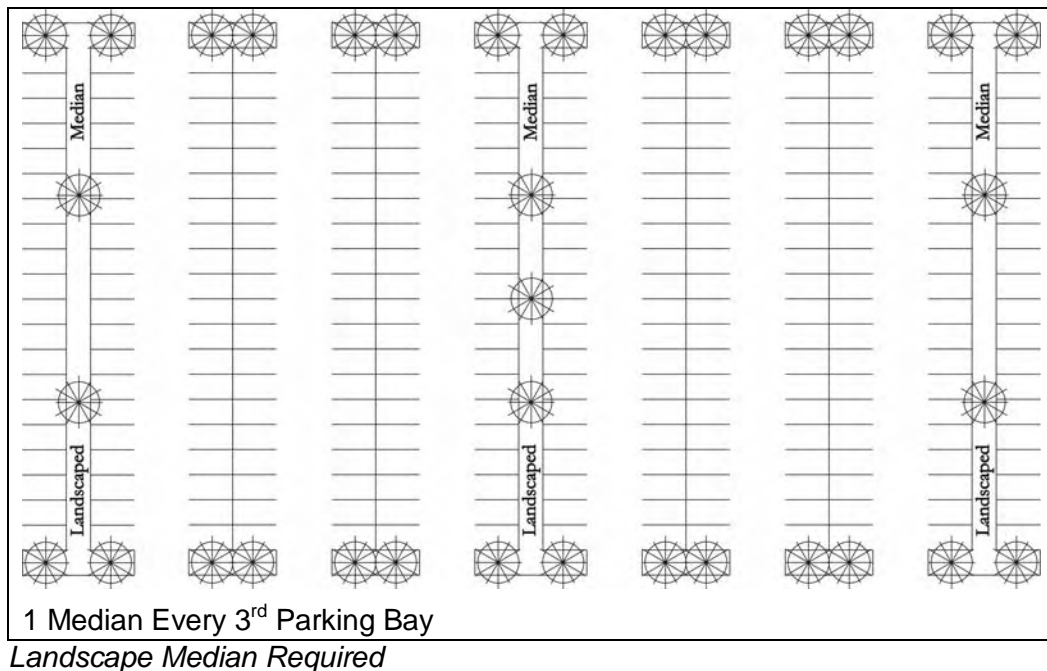
(2) One (1) medium shrub for every one (1) parking space shall be planted within landscape islands containing required trees.

(c) Parking areas with more than two hundred (200) parking spaces.

(1) One (1) shade type tree for every eight (8) parking spaces, planted within landscape islands, reasonably dispersed within the parking area so that no more than fifteen (15) to twenty (20) parking spaces exist between landscaped islands.

(2) One (1) medium shrub for every one (1) parking space shall be planted within landscape islands containing required trees.

(3) One (1) landscape median six (6) feet in width for every three (3) parking bays shall be installed. The landscape median shall be required to extend the full length of the parking bay and shall include twenty (20) percent of the required parking area landscaping.



(d) Wheel stops, curbing, or other barriers shall be provided to prevent damage to required landscaping by vehicular traffic. Protection shall be installed to prevent soil erosion from the landscape area.

(e) Parking area screening.

(1) In all instances where parking areas are adjacent to public or private streets, a screen with a minimum height of three (3) feet at time of installation shall be provided along the entire length of the parking area exclusive of driveways and entrances. The minimum planting width for the screen shall be six (6) feet.

(2) For the purposes of this section, any of the following combination of landscaping and berms may be used to fulfill this requirement:

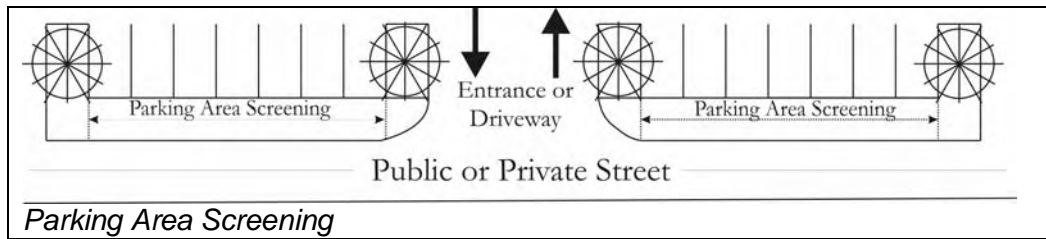
(a) One (1) large shrub per three (3) feet of street frontage.

(b) Earthen berm with three (3) small shrubs per three (3) feet of street frontage.

(c) Earthen berm with one (1) medium shrub and one (1) small shrub per three (3) feet of street frontage.

(d) Any combination of a, b or c above.

3. Earthen berms shall vary in width and height and shall be curvilinear in form and provide a gentle tie-in with the existing grade. Average height of earthen berms used to satisfy this requirement shall be three (3) feet in height.



(f) Parking area exceptions.

(1) Where the primary use of a parking area is for the sale of motor vehicles, recreational vehicles, trailers, boats, tractors, or mobile homes the required parking area landscaping and parking area screening may be disbursed in a reasonable manner so as not to interfere with display and maintenance.

Sec. 35.1-25.1.8. Street trees for multi-family, commercial and industrial districts.

(a) For all multi-family, commercial and industrial developments, street trees are required at the rate of one (1) shade tree for each forty (40) feet of street frontage or in the case where overhead utility lines prohibit the planting of shade trees one (1) ornamental tree for each twenty (20) feet of street frontage.

(b) Required street trees shall be planted along the property line that fronts the street and shall not be planted within the public right-of-way or within any utility easements.

(c) Street trees within the site distance triangle may be raised to allow for visibility.

Sec. 35.1-25.1.9. Foundation plantings.

(a) All sides of multi-family, commercial, or industrial buildings, which front on a public or private street and are visible from an adjacent residential district, shall be landscaped with foundation plantings as follows:

(1) One (1) ornamental tree per twenty (20) linear feet of building.

(2) One (1) large shrub per three and one half (3.5) linear feet of building.

(b) Foundation plantings may be placed in collective groupings along the perimeter of the building for which required.

Sec. 35.1-25.1.10. Utility screening.

(a) Loading areas, refuse areas, storage yards, stormwater management ponds, HVAC equipment, water vaults, Reduced Pressure Zone (RPZ) devices or other objectionable items shall be screened from view of any public or private street, or any adjacent residential district.

(b) Stormwater Management Facilities intended for display as a water feature or naturalized planting area are exempt from screening requirements.

(c) Screening may be accomplished by a combination of existing evergreen vegetation, walls, fences, earthen berms and new evergreen vegetation appropriate to screen the equipment or activity. The required height of screening at installation shall be sufficient to screen the equipment or activity.

(d) The use of chain link fence as the sole method of screening is prohibited. Where it is deemed appropriate by the property owner or developer for security purposes, it shall be screened from view as listed in paragraph c above.

Sec. 35.1-25.1.11. Buffering.

(a) In all instances where a commercial district, industrial district, or any parking area is located adjacent to any residential district, or a multi-family residential district is adjacent to a one or two family residential district, a vegetative evergreen buffer shall be established on the property for which said buffer is required.

(b) Where required, the planting area for buffering shall be a minimum of twenty (20) feet in width extending along the entire length of the development area and shall generally be required along the property line unless topographic or other considerations would make it more effective located back from the property line.

(c) The vegetative buffer shall consist of a staggered evergreen tree line with a baseline filler of medium height evergreen shrubs. The evergreen tree material shall be a minimum of four (4) feet in height at time of planting. The evergreen tree line shall be planted in rows fifteen (15) feet apart and staggered ten (10) feet on center. In lieu of the baseline filler an earthen berm may be used. The earthen berm shall vary in width and height and shall be curvilinear in form and provide a gentle tie-in with the existing grade. Average height of earthen berms used to satisfy this requirement shall be three (3) feet in height.

(d) Where appropriate existing vegetation may be used to satisfy this requirement. Existing vegetation may be required to be supplemented with additional evergreen material in order to meet the buffering requirements. The need for additional evergreen material shall be determined during the site development plan review process.

Sec. 35.1-25.1.12. Tree canopy requirements.

(a) For purposes of this section, "tree canopy" shall include all areas of coverage by existing plant material exceeding five (5) feet in height, and the extent of planted tree canopy at maturity shall be based on the published reference text, manual of woody landscape plants, fifth edition, 1998, by Michael A. Dirr.

(b) The planting or replacement of trees on a development site shall be required to the extent that, at a twenty (20) years, minimum tree canopies will be provided as follows:

	Minimum Tree Canopy Required
B-1, B-2, B-3, B-4, B-5, B-6, I-1, I-2, I-3	10% of entire development site
R-4, R-5	10% of entire development site
R-3	15% of entire development site
R-C, R-1, R-2	20% of entire development site

(c) Existing trees that are to be preserved may be included to meet all or part of the tree canopy requirements.

(d) Existing trees infested with disease or structurally damaged to the extent that they pose a hazard to person or property, or to the health of other trees on site, shall not be included to meet the tree canopy requirements.

(e) Tree canopy requirements do not replace, or negate full compliance with, the requirements of any other section of the landscaping ordinance. However, if planting of landscaping required by this ordinance meets or exceeds the tree canopy requirement, no further planting of trees or replacement of trees is required by this section.

(f) In areas zoned B-4, central business district, B-6, riverfront business district or where the city planner determines that crime prevention through environmental design (CPTED) principles apply, the city planner, in consultation with the city's urban forester, may allow the off-site planting of up to ninety-nine (99) percent of the

required street trees, parking area screening, buffering and foundation plantings. Off-site planting areas shall be within the city limits and in such location as approved by the city planner.

(g) The following shall be exempt from the tree canopy requirements.

- (1) Dedicated K-12 school sites.
- (2) Playing fields and other non wooded recreation areas
- (3) Designated wetlands
- (4) Other facilities and uses similar in nature as determined by the city council.

Sec. 35.1-25.1.13. Installation.

(a) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association and the Virginia Society of Landscape Designers, or the Virginia Chapter of the American Society of Landscape Architects.

(b) All landscaping used to satisfy the requirements of the landscaping ordinance shall meet the specifications and standards of the American Association of Nurserymen.

(c) Any tree used to satisfy the requirements of the landscaping ordinance shall be a minimum of one and one half (1.5) inches in caliper at time of planting.

(d) Required landscaping shall be installed in accordance with an approved site development plan. Required landscaping shall be completed prior to occupancy or the property owner or developer may provide a guarantee in a form acceptable to the zoning administrator that ensures installation.

(1) A guarantee for required landscaping shall be in an amount equal to one hundred twenty percent (120%) of the cost of all plants, related materials and installation. Amount is subject to approval of the city's zoning administrator and urban forester.

(2) All required landscaping shall be installed, inspected, and approved within six (6) months of acceptance of the guarantee.

(3) During any water emergency declared by the governing body in which the use of water is restricted, the Zoning Administrator may permit the delayed installation of required trees, plants or screening materials. In this event, the property owner shall be required to obtain and or maintain a guarantee. After declaration of the water emergency ends, the property owner shall be required to install all trees, plants, screening and related materials within six (6) months.

Sec. 35.1-25.1.14. Maintenance.

(a) After the zoning administrator determines that all landscaping required by this chapter is complete and in healthy condition, the property owner shall be responsible for the ongoing protection and maintenance of all required landscaping in a manner consistent with the approved site development plan.

(b) In the event required landscaping as shown on the approved site development plan is dead or damaged, it shall be replaced by the property owner after notification by the zoning administrator. The zoning administrator may accept a guarantee in the amount of one hundred twenty percent (120%) of the cost of all damaged or dead plants, related materials and installation.

(c) All required trees and shrubs as shown on the approved site development plan shall be allowed to grow until maturity and shall not be removed, unless a suitable replacement is provided that meets the standards of this ordinance and shown on an approved landscaping plan. Pruning techniques shall be done in accordance with the standards adopted by the American National Standards Institute (ANSI), A300, Part 1, Standard 1 and

the International Society of Arboriculture (ISA). Topping of trees is inappropriate. Any tree that dies as the result of topping shall be replaced by the property owner.

Sec. 35.1-25.1.15. Stormwater quality credit.

All landscaping required by this ordinance or preserved as shown on an approved site development plan, shall receive a credit towards meeting water quality requirements as required by the plan approving authority.

Sec. 35.1-25.1.16. Alternate layout of landscaping.

The city planner with the concurrence of the planning commission may approve an alternative layout to landscaping required by this ordinance provided that the spirit and intent of the ordinance are preserved and the goals of Section 35.1-25.1 are assured.

2. BE IT FURTHER ODAINED That Sections 35.1-14, Site plan review, Section 35.1-23, Supplementary regulations (building projections, setbacks, etc.), Section 35.1-35, Local neighborhood business districts, B-2, Section 35.1-38, General business district, B-5, Section 35.1-39, Restricted industrial districts, I-1, Section 35.1-43.2, Commercial corridor overlay district, CC, Section 35.1-43.3, Scenic corridor overlay district, SC, Section 35.1-43.17, Development standards for flexible space developments, Section 35.1-52.1, Cemeteries and columbariums, Section 35.1-54, Care centers, Section 35.1-56, Cluster dwellings, cluster development with townhouse lots for sale and/or condominiums, Section 35.1-56.1, Group homes, Section 35.1-60, Kennels and other small animal raising and boarding, Section 35.1-62, Mobile home parks, Section 35.1-64, Nursing homes, Section 35.1-69, Recreation facilities, public or community owned, Section 35.1-70.1, Sanitary or solid waste facilities, Section 35.1-71, Schools, colleges, and vocational schools, Section 35.1-73, Theaters, drive-ins, Section 35.1-74, Trailer parks, campgrounds, as follows:

Sec. 35.1-14. Site plan review.

(a) Intent. Site plan review is intended to ensure proper design in types of development which can have deleterious effects on their surroundings. These effects are subject to modification or reduction through the physical design of such development. Review of the design, therefore, is aimed at the greatest possible benefit to the community as a result of building and site design.

(b) Developments subject to site plan review. The following types of development shall be subject to the site plan review provisions of this ordinance, including petitions for a rezoning request or for a conditional use permit request:

- (1) All commercial and industrial facilities, including off-street parking;
- (2) All institutional facilities, such as schools, hospitals and clubs;
- (3) All residential developments, involving more than two (2) dwelling units in one (1) building or on one (1) lot;
- (4) Planned unit developments (see Section 35.1-42.1 et seq.);
- (5) Conditional use permits (as specified in this ordinance).

(c) Site plan procedures and review:

(1) Definitions:

a. Schematic site plan. Plan to accompany all rezoning petitions with the exception of CCD and PUD requests.

- b. Preliminary site plan. Plan to accompany CCD requests; however, final CCD rezoning approval will be contingent upon approval of a final site plan.
- c. Final site plan. Plan required for final CCD rezoning approval and/or issuance of a building permit.
- (d) Plan requirements: The planning division will require an appropriate number of clearly legible copies for each of the following applicable site plans.
 - (1) The schematic site plan shall include the following:
 - a. Name and address of petitioner and owner;
 - b. Name and location of development;
 - c. Property lines by metes and bounds;
 - d. Existing and proposed zoning;
 - e. Type of proposed zoning;
 - f. Owner, present use and existing zoning of all abutting property;
 - g. Existing and proposed streets, easements, rights-of-way and other reservations;
 - h. Ingress and egress points;
 - i. Proposed parking areas, materials for same and number of spaces;
 - j. Existing and proposed buildings;
 - k. Date, scale of not less than one (1) inch equals one hundred (100) feet, and north point;
 - l. Limits of established one hundred (100) year floodplain;
 - m. Major natural features;
 - n. Required setbacks and areas for landscaping and buffering;
 - o. Location of existing water, storm and sanitary sewer lines.
 - (2) The preliminary site plan shall include for review by the appropriate city department, in addition to the items specified for a schematic site plan, the following:
 - a. Existing and proposed topography;
 - b. Location of proposed water mains, fire hydrants, pipe sizes, grades and direction of flow;
 - c. Generalized erosion control measures;
 - d. Location of proposed utility lines, indicating where they already exist and whether they will be underground;
 - e. Location of proposed storm and sanitary sewer systems, both surface and subsurface, showing pipe sizes, grade flow and design loads;
 - f. Vicinity map at a scale no smaller than one (1) inch equals six hundred (600) feet, showing all streets and property within one thousand (1,000) feet of the subject property;
 - g. Existing and proposed curb lines and sidewalks;
 - h. Location of proposed signs;
 - i. Proposed location and materials for disposal of refuse and other solid waste;
 - j. Recreation and/or open spaces;
 - k. Name and address of person(s) preparing the site plan;
 - l. Proposed buildings and structures to include:
 - 1. Distance between buildings;
 - 2. Number of stories;
 - 3. Area in square feet of each floor;
 - 4. Number of dwelling units or guestrooms;
 - 5. Structures above height regulations.
 - m. Proposed location of outdoor lighting.
 - n. Landscaping plan as required by Section 35.1-25.1.5, Landscaping plan required.

(3) The site plan shall be accompanied by a check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

(4) The final site plan shall include, in addition to the items specified for a preliminary site plan, the following:

- a. Name and address of owners of record of all adjacent properties;
- b. Current zoning boundaries, including surrounding areas to a distance of three hundred (300) feet;
- c. Final erosion and sediment control plans;
- d. Location of watercourses, marshes, rock outcroppings, wooded areas and single trees with a diameter of ten (10) inches measured three (3) feet from the base of the trunk;
- e. Location of buildings existing on the tract to be developed and on adjacent tracts within a distance of one hundred (100) feet, indicating whether existing buildings on the tract are to be retained, modified or removed;
- f. Proposed streets and other ingress and egress facilities (indicating curb lines, sidewalk lines and public right-of-way lines). Profiles and cross-sections of streets;
- g. Layout of off-street parking;
- h. Proposed location, direction of, power and time of use of outdoor lighting (not required of industrial development);
- i. ~~Proposed planting, including all landscaping and screening, and indicating existing trees to be retained and areas to be left undisturbed (not required of industrial development);~~ Landscaping plan as required by Section 35.1-25.1.5, Landscaping plan required.
- j. Location, size and design of proposed signs;
- k. Elevations of buildings to be built or altered on site.

(e) Administrative responsibility.

(1) The city planner shall be responsible for checking the site plans for general completeness and compliance with adopted plans or such administrative requirements as may be established prior to routing copies thereof to the technical review committee. He shall see that all examination and review of the site plans are completed by the approving authorities.

(2) The city planner shall approve or disapprove the site plans in accordance with the technical review committee's recommendations. He shall then return two (2) copies of the site plan, together with modifications, noting thereon any changes that will be required, to the applicant not later than thirty (30) days from the date of submission, except under abnormal circumstances.

(f) Adjustment in approved site plan. After a site plan has been approved by the city planner, minor adjustments of the site plan, which comply with the spirit of this article and other provisions of this chapter with the intent of the technical review committee in their approval of site plans and with the general purpose of the comprehensive plan for development of the area, may be approved by the city planner with concurrence of the technical review committee. Minor adjustment from an approved site plan without the city planner's approval, or any major deviations, shall require the applicant to resubmit a new site plan for consideration.

(g) Waiver. Any requirement of this section may be waived by the planning commission and/or its designee in a specific case where such requirement is found to be unreasonable or unnecessary for review of the proposal and where such waiver will not be adverse to the purpose of this section.

(h) Building and occupancy permits. No building permit shall be issued for a building in an area in which site plan review is required unless the construction proposed by such building permit is in conformance with the approved site plan. No occupancy permit shall be issued in such an area for a use which is not in conformance with the approved site plan.

(i) Appeal. An appeal of any decision made by the city administration concerning site plan review procedure may be made to the planning commission.

Sec. 35.1-23. Supplementary regulations (building projections, setbacks, etc.).

- (a) Terraces. A paved terrace shall not be considered to be a building or structure in determination of yard requirements of lot coverage; provided, however, that such terrace is without roof, awnings, screens, walls, parapets or other forms of enclosure and is not more than three (3) feet above grade. Such terrace, however, may have a guard railing, wall or fence not over four (4) feet high, and shall not project into any yard to a point closer than five (5) feet from any lot line.
- (b) Porches. Uncovered porches, decks, or covered but not enclosed porches and decks, may project not more than ten (10) feet beyond the front or rear walls of a building into a required front or rear yard. An exception is on the street side of corner lots, in which case they may project not more than ten (10) feet beyond the side walls of a building into a required side yard, provided the side yard has a width equal to or exceeding the depth of the required front yards on the side street. Any two (2) story or enclosed porch, or one having a roof capable of being enclosed, shall be considered a part of the building in the determination of the size of yard or amount of lot coverage.
- (c) Projecting horizontal architectural features. Architectural features, such as windowsills, belt courses, chimneys, cornices, eaves or bay windows, may project not more than three (3) feet into any required yard, but not closer than five (5) feet to any lot line. The sum of any bay window projections on any wall shall not exceed one-fourth (1/4th) of the length of said wall.
- (d) Projecting features above the roof line. The height limitations of the zoning ordinance shall not apply to flag poles, church spires, belfries, cupolas and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads or similar features, radio and television antennas for the use of residents of dwellings in apartments, and necessary mechanical appurtenances usually carried above the roof level. Such a feature, however, shall be erected only to a height necessary to accomplish the purpose it is intended to serve, but in no case more than fifteen (15) feet above its lowest point of contact with the roof. The total area covered by such features shall not exceed in cross-sectional area fifteen (15) per cent of the area of the section of roof upon which they are located. Such features as water tanks, cooling towers and bulkheads shall be enclosed within walls of material and designed in harmony with the main walls of the building on which they are located.
- (e) Fire escapes. Open fire escapes may extend into any required yard not more than five (5) feet; provided, however, that such fire escapes shall not be closer than five (5) feet at any point to any lot line.
- (f) Parapet walls. A parapet wall may extend not more than five (5) feet above the roof of the building on which it is located or five (5) feet above the height limit for the district in which it is located.
- (g) Fences and walls. The yard requirements of the zoning ordinance shall not be deemed to prohibit any otherwise lawful fence or wall if each fence and/or wall does not exceed four (4) feet in height in front yards and eight (8) feet in height in side and rear yards in residential districts or ten (10) feet in other districts and if it does not conflict with standards in this section except on a corner lot. On a corner lot, no fence and/or wall shall exceed four (4) feet in height in the required side or rear yard abutting a street when a front yard is required for that block of the side street.
- (h) Corner lots. On a corner lot the required side yard abutting a street shall be at least equal to a required front yard for that street. A rear yard shall be provided on each corner lot. The division of inspections shall designate which yard is the rear yard.
- (i) Interior lots with double frontage. Interior lots having a frontage on two (2) streets shall have a front yard on both streets as provided herein, except where all lots are designed or designated to face a given street or as may be established by existing dwellings, all of which face the same street, in which cases rear yard requirements may be applied to the street on which the dwellings do not face.

(j) Visibility at intersections. On any corner lot on a dedicated street, no building, fence, wall, hedge or other structure or planting more than three (3) feet in height other than posts, columns or trees separated by not less than six (6) feet from each other, shall be erected, placed or maintained within the triangular area formed by the intersecting curb or edge of pavement lines and a straight line joining points of said lines fifty (50) feet from such intersection. The height of three (3) feet shall be measured above the road surface at the nearest edge of the pavement. This paragraph shall not apply to existing trees provided that no branches are located closer than six (6) feet to the ground.

(k) Future street widening. On any street where a street widening plan designating future right-of-way lines has been officially adopted, the yards required by the zoning ordinance shall be measured from such lines rather than the existing street lines; and where no yard is otherwise required, a yard is hereby required extending back to the future right-of-way line.

(l) Limited access highway. On any limited access highway (including ramps) there shall be provided a yard or setback line of fifty (50) feet from the right-of-way line; and no building, sign, billboard or structure of any type shall be located or erected nearer than fifty (50) feet to such right-of-way line.

(m) Exception for existing alignment of building. Where there are existing buildings in a block, the required front yard shall be the same depth as the average established for such existing building, provided that no front yard shall be required to exceed sixty (60) feet in depth, and further provided that when a setback line is shown on a subdivision plat recorded after the effective date of this section, no front yard shall be required to exceed the setback line on the recorded plat.

(n) Courts. The least horizontal dimension of any court, at any level, shall not be less than the height of any vertical wall forming part of such court, but not less than twenty (20) feet in any case.

(o) Increased side yard width. Where a structure exceeds fifty (50) feet in length along a side yard, the required side yard shall be increased one (1) foot in width for each ten (10) feet of additional building length or fraction thereof.

(p) Private recreational facilities. Private recreational facilities such as swimming pools, tennis courts and basketball courts permitted as accessory uses located on residentially zoned land, shall not be located in any front yard and shall have the following setbacks:

(1) If accessory to a multifamily use, the edge of the facility shall be located not less than ten (10) feet from any lot line.

(2) In the event that such facility is located less than fifty (50) feet from any lot line, it shall be screened ~~by a continuous fence at least four (4) feet in height, supplemented with a strip of densely planted trees or shrubs at least four (4) feet high at the time of planting along such lot line adjacent to such facility~~ according to the regulations of Section 35.1-25.1.10. Utility screening of this ordinance.

(q) Industrial districts adjacent to residential districts. In all instances where an industrial district is adjacent to a residential district, there shall be established in the industrial district a screened yard between the two (2) districts.

When an industrial district and a residential district abut, there shall be required a one-hundred (100) foot setback and a vegetative buffer ~~at least four (4) feet high and ten (10) feet wide at the lot line~~ shall be provided according to the regulations of Section 35.1-25.1.11. Buffering of this ordinance.

(r) Commercial districts adjacent to residential districts. In all instances where a commercial district is adjacent to a residential district, there shall be established in the commercial district a screened yard between the two (2) districts. When a commercial district and a residential district abut, there shall be required a fifty (50) foot setback and a vegetative buffer ~~at least four (4) feet in height at the time of planting and at least ten~~

~~(10) feet in width at maturity shall be provided according to the regulations of Section 35.1-25.1.11. Buffering of this ordinance.~~

(s) Multifamily residential districts adjacent to single-family or two-family residential districts. In all instances where a multifamily district is adjacent to a single-family or two-family residential district, there shall be established in the multifamily district a screened yard between the two (2) districts. When a multifamily district and a single-family or two-family district abut, there shall be required a fifty (50) foot setback and a vegetative buffer at least four (4) feet in height at the time of planting and at least ten (10) feet in width at maturity shall be provided according to the regulations of Section 35.1-25.1.11. Buffering of this ordinance.

~~(t) Parking lot landscaping. All parking lots shall landscape an area equivalent to at least five (5) per cent of the total area of the parking lot. The landscaping material shall be at least four (4) feet in height at the time of planting and at least five (5) feet in width at maturity. The location of such landscaping shall be on the property line of the street on which the property fronts or in such location as is approved by the city.~~

~~(u) Planting material for buffering.~~

~~(1) All planting material to be used as a buffer shall be at least four (4) feet in height at the time of planting and a species of live evergreen as approved by the parks and beautification division of the city as being appropriate for screening purposes.~~

~~(2) The arrangement and spacing of such planting material shall be provided in such a manner as to effectively screen the activities of the subject lot, as determined by the division of inspections.~~

~~(3) All such planting specifications shall be filed with the approved plan for the use of the lot.~~

~~(4) To assure that required planting shall be properly maintained throughout the continuance of the use of the lot, the city may require a bond or guarantee, payable to the City of Lynchburg, in such amount and for such period of time as the city may designate.~~

~~(v)~~ (t) Dedicated street as portion of required buffer. When a dedicated street separates two (2) districts requiring a screened buffer and an additional setback, one fourth (1/4th) of the width of the dedicated street may be used in calculating the additional required setback.

~~(w)~~ (u) Vehicular access. Vehicular access points to all uses shall conform to the "Standard Entrance Policy" of the city.

~~(x)~~ (v) A driveway on a residential flag lot, as defined in Section 24.1-5. Words and terms, shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained for a shared driveway with one (1) of the adjacent lots.

~~(y)~~ (w) Inaccessibility of public services. In order to protect the health, safety, morals and general welfare of the public the city may restrict or deny a rezoning request due to the inaccessibility of water and/or sewer lines.

~~(z)~~ (x) Special permit for temporary outdoor promotional attractions. Temporary outdoor promotional attractions incident to a shopping center or other business establishment, such as auto, boat or home shows, pony and hay rides, acrobatic acts and the like, may be permitted by special permit subject in each case to approval by the city manager or his duly designated official and to the following conditions:

(1) Such a permit shall be issued only for use within the B-3, B-4 or B-5 districts.

(2) A permit for any such attraction shall not be issued for a longer period than fifteen (15) days, but may be renewed by the city manager or his duly designated official with or without modification; or may be revoked.

(3) A charge may be made for admission to or use of any such attraction.

- (4) No such attraction shall be located within less than one hundred fifty (150) feet of the nearest lot line of any adjacent dwelling.
- (5) Lights, music, amplifiers and other noise shall be controlled so as not to be a nuisance to adjacent residents.
- (6) The hours of operation shall not extend beyond the normal business hours of the business establishments to which such attractions are incident.
- (7) Any other conditions or requirements in each case that may be deemed necessary by the city manager or his duly designated official to protect the peace, health, safety, morals and welfare of adjacent residents and the general public.
- (8) In the event the city manager or his duly designated official refuses to issue a permit or revokes a permit previously issued for said promotional attractions, the applicant for such a permit shall have the right of appeal to the city council to review the action of the city manager or his duly designated official. The decision of the city council with regard to such permit shall be final.

Sec. 35.1-35. Local neighborhood business districts (B-2).

- (a) Intent. These districts are to provide for commercial and other services for their immediate area. Uses permitted are those providing merchandise or services needed frequently by occupants of residential areas.
- (b) Special regulations. The following special regulations shall apply in local neighborhood business districts:
 - (1) No B-2 district shall exceed a total of two (2) acres of net area.
 - (2) No B-2 district shall be established or extended unless it is adjacent to or at least one (1) mile from any other B-2, B-3 or B-4 district.
 - ~~(3) Boundaries of a B-2 district adjacent to a residential district shall be provided with a buffer according to the regulations of Section 35.1-23 of this ordinance.~~
 - (c) Prohibited uses. Within any business B-2 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose.
 - (d) Uses permitted by right. The following uses will be permitted by right in local neighborhood business districts under the regulations of Section 35.1-14 of this ordinance:
 - (1) Uses permitted by right in R-1 through B-1 districts and as regulated in the adjacent residential district of the highest density.
 - (2) Establishments selling the following types of merchandise at retail wholly within an enclosed building:

Bakery goods
Confectionery goods
Antiques and gifts
Delicatessen goods
Drugs, pharmaceuticals and cosmetics
Books, magazines and stationery
Flowers and other plants
Food
Hardware

Variety goods

(3) The following types of service establishments:

Barber and beauty shops

Laundries and dry cleaning establishments: self-service and pick-up and delivery, but without laundry and dry cleaning equipment except coin-operated self-service machines

Custom dressmaking

Shoe repairing, with customary sales of related merchandise

Tailoring shops

Branches of banks and savings and loans institutions

Medical, dental and other professional offices, restaurants, completely enclosed within a building.

(4) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. The following shall be permitted as accessories to permitted principal uses in local neighborhood commercial B-2 districts:

(1) Accessory uses permitted in the adjacent residential district of highest permitted densities.

(2) Off-street parking lots as regulated in Section 35.1-25 of this ordinance.

(f) Uses permitted by conditional use permit. The following uses shall be permitted in local neighborhood business districts as conditional use under the regulations of Section 35.1-15 and Article X of this ordinance:

(1) Uses permitted as conditional use permits in the B-1 districts and as regulated in the adjacent residential district of the highest density.

(2) Outdoor restaurants.

(3) Schools and colleges for general education with a total enrollment over fifty (50) students.

(g) Standards. The following dimensional standards shall apply within the B-2 business district:

(1) General standards

Minimum average lot area per establishment (square feet)

Minimum lot depth (feet)

B-2

6,000

100

(2) Yard regulations.

a. When a lot in any B-2 district is used, in whole or in part, for residential purposes the yard requirements shall be the same as those in the R-5 residential district Section 35.1-33.

b. Front yards.

1. Where all of the lots contained within a block are in a business B-2 district, there shall be a front yard having a depth of not less than twenty (20) feet; provided that if the natural slope of the ground contained within a block is such that the average difference in elevation between the sidewalk grade and the grade at the setback line is greater than five (5) feet, whether there be buildings in such block or not, the setback line may be established at a distance back where such difference in elevation is five (5) feet, but in no case shall the depth of the front yard be less than fifteen (15) feet.

2. Where the lots contained within a block are partly in this district and partly in another district in which a greater front yard is required, the front yard requirements of the latter district shall apply to the entire street frontage in both districts, or twenty (20) feet, whichever distance is the greater.

3. Where there are existing buildings in a block, the required front yard shall be the same depth as the average established for such existing buildings; provided that no front yard shall be required to exceed forty

(40) feet in depth. Provided, further, that in any B-2 business district, when as of the time of passage of this ordinance more than twenty-five (25) per cent of the street frontage on one (1) side of the street is occupied by business buildings, only the setback observed by such buildings shall be considered in establishing the average, and the setback line observed by gasoline service stations shall not be a factor in calculating the average setback line.

4. Interior lots having a frontage on two (2) streets shall have a front yard on each street as provided in a., b. and c. above.

5. Corner lots: Where front yards have been established, or may be required, within a block, on each of two (2) intersecting streets; there shall be a side yard, for the full depth of the lot, abutting the side street of a corner lot, and equal in depth to such established or required front yards on the side street. No accessory building shall project into the required front or side yard abutting either street, nor be located in any rear yard which may extend in front of the required setback line on the side street.

c. Side yards. For corner lots, when a side yard is not required along the side street, there shall be a side yard ten (10) feet in width along such street. For all other lots, no side yard is required except where a business B-2 district abuts a residential district, in which case the yard required on the abutting side shall be the same as that required in the residential district.

d. Rear yards. No rear yard is required except where a business B-2 district abuts a residential district, in which case the yard so abutting shall be the same as the side yard requirement in the residential district.

(3) Height regulations. Building height regulations shall be the same as those in the B-1 district, Section 35.1-34.

(4) Area regulations. Each dwelling, boardinghouse, lodging house, convalescent and nursing home, tourist home and hotel, together with their accessory buildings, shall be located on a lot having an area of not less than one thousand (1,000) square feet for each family unit, except that the minimum area for any such lot shall be six thousand (6,000) square feet, and the minimum width fifty (50) feet; provided, however, that a lot having less area, or less width, than herein required, and of record at the time of the effective date of this section, may be occupied by a single-family dwelling only.

Note 1. These standards need not necessarily apply in planned unit developments.

(h) Signs. (As provided in Sections 35.1-26 through 35.1-26.16)

(i) Parking requirements. Off-street parking and loading shall be provided as required in Section 35.1-25 of this ordinance.

Sec. 35.1-38. General business district (B-5).

(a) Intent. This district is to provide for a variety of commercial and similar uses which require large sites and which often produce substantial nuisance effects. The location of these districts should provide for a high level of access, relatively large amounts of level land, and opportunities to shield adjacent residential districts from nuisance effects.

(b) Special regulations. The following special regulations shall apply in general business districts:

(1) Direct access shall be available to at least one (1) arterial street.

(2) Driveways shall be kept to a minimum and shall meet the requirements of the "Standard Entrance Policy" of the City of Lynchburg.

~~(3) Buffers shall be provided along boundaries of this district adjacent to any residential district.~~

(c) Prohibited uses.

(1) Within any business B-5 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for other than one (1) or more of the following specified purposes; provided that no operations shall be carried on which create conditions of smoke, fumes, noise, odor, light or dust detrimental to health, safety or the general welfare of the community.

(d) Uses permitted by right. The following uses shall be permitted by right in the general business district subject to the regulation of Section 35.1-14 to the zoning ordinance:

(1) Uses permitted by right in the B-3 district except one (1) and two (2) family dwellings.

(2) The following additional uses:

Auction rooms

Armories

Automobile and truck rental

Automobile, truck and trailer sales with outside sales and storage permitted Automobile service stations

Automobile and truck tire sales

Rebuilding and retreading establishments

Battery sales

Bottling plants

Billboards, subject to the regulations of Section 35.1-26.1

Blacksmith shops

Bookbinding

Building material sales

Carpentry shops

Coffee and peanut roasting

Commercial amusements, including swimming pools, golf courses and driving ranges, and skating rinks, but not including circuses, carnivals, and race tracks

Contractors' establishments

Dairies, pasteurizing plants, or ice cream manufacture

Dance halls

Depositories for the storage of office records, microfilm or computer tapes

Diaper services

Drive-in theaters

Dry cleaning and dyeing plants

Exterminators

Furniture upholstering and repair shops

Custom furniture manufacturing

Commercial greenhouses

Hiring halls and other places of assembly for the registration or assignment of employment

Automobile painting and body repair shops

Laundries

Sales lots for construction and farm equipment and similar machinery

Ice manufacture

Commercial kennels for dogs and other pets

Wholesale or produce markets

Monument and gravestone sales

Motion-picture production studios

Newspaper offices

Photographic developing and printing establishments

Printing plants

Second-hand stores including auction sales provided such activity is conducted wholly within an enclosed building

Small sign shops

Storage warehouses and yards, except sandyards, gravel yards, coal yards, railroad yards, automobile wrecking yards, junkyards or the storage of combustibles prohibited by the fire code

Travel trailer sales and rentals

Window blinds, shades and awnings (manufacture)

Leather products (not to include tanning)

Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. The following uses are permitted as accessory to principal uses permitted in general business districts:

(1) Accessory uses permitted in B-3 districts.

(2) Other uses determined by the planning commission to be customarily accessory to uses permitted in this district.

(3) Exterior signs pertaining to the uses conducted on the premises, as regulated in the B-4 district, except that projecting signs otherwise complying with this ordinance will be permitted.

(f) Uses permitted by conditional use permit. The following uses shall be permitted in general business districts as conditional use under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

(1) Temporary fairs, amusement parks and circuses.

(2) Arenas, auditoriums or stadiums unlimited in capacity.

(3) Moving and storage establishments.

(4) Transient trailer parks.

(5) Radio towers and transmitting stations.

(6) One (1) and two (2) family dwellings.

(7) Motor freight stations.

(8) Trucking terminals.

(9) Commercial swimming pools.

(10) Schools and colleges of all types exceeding a maximum enrollment of one hundred (100) students.

(11) Flexible space developments as provided in Section 35.1-43.14.

(g) Standards for B-5 business districts.

(1) General standards

Minimum average lot area per establishment (square feet)

Minimum lot depth (feet)

B-5

None required

0

(2) Yards. When a lot in any business B-5 district is used, in whole or in part, for residential purposes, the yard requirements shall be the same as those in a residential R-5 district.

a. Front yards.

1. Where all of the lots contained within a block are located in a business B-5 district, no front yard will be required.

2. Where the lots contained within a block are partly in this district and partly in another district in which a greater front yard is required, the front yard requirements of the latter district shall apply to the entire street frontage in both districts, or twenty (20) feet, whichever distance is the greater.

b. Side yards. No side yard shall be required except where a business B-5 district abuts a residential district, in which case the yard required on the abutting side shall be the same as that required in the residential district.

c. Rear yards. The requirement for rear yards is the same as that for business B-2 districts, Section 35.1-35.

(3) Height regulations. The height regulations shall be the same as those required for a business B-4 district, Section 35.1-37.

(4) Area regulations. The area requirements shall be the same as those required for a business B-2 district, Section 35.1-35.

(h) Signs. (As provided in Sections 35.1-26 through 35.1-26.16)

(i) Parking requirements. Off-street parking and loading space shall be provided; however, the requirements of off-street parking of said section shall not apply in connection with buildings located in the first fire district as described in the city code.

Sec. 35.1-39. Restricted industrial districts (I-1).

(a) Intent. Restricted industrial districts are intended to provide for industrial plants developed at moderate to low densities and with high standards of building and site design. These districts can be mapped in close proximity to residential areas and are particularly appropriate along regional highways, where they can serve to improve the attractiveness and amenity of these highways to the benefit of the traveler, the community and the individual plant owner.

(1) In any industrial I district, as indicated on the official zoning map, no lot, building or structure shall be used, and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any use which is in conflict with any ordinance of the City of Lynchburg now existing or hereafter enacted. No use shall be allowed unless listed below as a use permitted by right, as a permitted accessory use or as a use permitted by conditional use permit, provided, however, that any such permitted use existing prior to December 13, 1988, may be enlarged or expanded, but not relocated, so long as it meets all other applicable requirements of this chapter. Any such use shall not be subject to any of the limitations or other regulations prescribed for non-conforming uses elsewhere provided in this chapter.

(b) Special regulations. The following special regulations shall apply in restricted industrial districts (I-1) :

~~(1) Required setbacks and other open areas not needed for operations shall be landscaped and such landscaping shall be maintained at all times.~~

~~(2)~~ (1) No use shall be permitted which produces noise, unshielded light, smell, dust or any other airborne nuisance which is perceptible beyond the property line of each zoning lot.

~~(3)~~ (2) All manufacturing, processing, testing, storage and similar operations shall be contained completely within buildings or structures.

~~(4)~~ (3) All building or structure sides which face a public street shall be of at least seventy (70) percent nonmetallic materials.

~~(5) Refuse collection areas and bulk loading operations, including a loading and unloading berth, shall be screened from view from all public streets or common boundaries with residential districts. These facilities shall be screened using construction materials or earth berms, but not landscaping. On those building sides which face a public street the screening materials shall be at least seventy (70) percent nonmetallic and shall match the materials used on those building sides. This regulation shall not apply to parking or recreation facilities, except that such facilities shall be screened from any adjacent residential development.~~

(c) Prohibited uses. The following uses are specifically prohibited in restricted industrial districts:

- (1) Fuel storage yards.
- (2) Contractors storage yards.
- (3) Lumber yards.
- (4) Sawmills.
- (5) Stonework.

(d) Uses permitted by right. The following uses shall be permitted by right in restricted industrial districts subject to the regulations of Section 35.1-14 of this ordinance:

- (1) Dwellings and agricultural uses existing at the time the land is zoned in this district.
- (2) Air conditioning, refrigerated equipment (manufacturing).
- (3) Apparel and accessories, hosiery and lingerie (manufacturing).
- (4) Automatic temperature controls (manufacturing).
- (5) Blankbooks, looseleaf binders and devices (manufacturing).
- (6) Blueprinting and photostating establishments.
- (7) Books, publishing and printing.
- (8) Business machines, typewriters, adding machines, calculators, card punching or counting equipment (manufacturing).
- (9) Camera and photographic equipment (manufacturing).
- (10) Canvas products (manufacturing).
- (11) Communication equipment (manufacturing).
- (12) Computer centers.
- (13) Computer (manufacturing).
- (14) Costume jewelry, costume novelties, buttons and miscellaneous notions (except precious metals) (manufacturing).
- (15) Cosmetics and toiletries (manufacturing).
- (16) Curtains and draperies (manufacturing).
- (17) Cutlery, hand tools and general hardware (manufacturing).
- (18) Data processing service.
- (19) Dental equipment and supplies (manufacturing).
- (20) Dental laboratory services.
- (21) Depositories for the storage of office records, microfilm or computer tapes.
- (22) Electrical appliance, components and instrument (manufacturing).
- (23) Electrical transmission and distribution equipment (manufacturing).
- (24) Electrical lighting and wiring equipment (manufacturing).
- (25) Electrical testing laboratories.
- (26) Engineering, laboratory and scientific and research instruments, equipment (manufacturing).
- (27) Envelope (manufacturing).
- (28) Government buildings used exclusively by the city, state or federal government for public service.
- (29) Greeting card (manufacturing).
- (30) Hats, caps and millinery (manufacturing).
- (31) Jewelry, silverware and flatware (manufacturing).
- (32) Lace goods (manufacturing).
- (33) Lithographing.
- (34) Medical equipment (manufacturing).
- (35) Medical instruments (manufacturing).
- (36) Musical instruments and parts (manufacturing).
- (37) Newspapers, publishing and printing.
- (38) Office, general, directly related to industrial activities.
- (39) Office building (with a minimum of twelve thousand (12,000) square feet of gross floor area.)
- (40) Office, computing and accounting machines (manufacturing).
- (41) Ophthalmic goods (manufacturing).

- (42) Optical instruments and lenses (manufacturing).
- (43) Orthopedic, prosthetic and surgical supplies (manufacturing).
- (44) Pharmaceutical (manufacturing).
- (45) Photoengraving.
- (46) Photographic equipment and supplies (manufacturing).
- (47) Printing and publishing.
- (48) Professional, scientific and controlling instruments; photographic and optical goods, watches and clocks, clockwork operated devices and parts (manufacturing).
- (49) Radio and television sets (manufacturing).
- (50) Research, development and testing laboratories.
- (51) Signs and advertising displays (manufacturing).
- (52) Silverware and plated ware (manufacturing).
- (53) Sporting goods (manufacturing).
- (54) Telecommunications towers and facilities (see Article XI. Telecommunications towers and facilities).
- (55) Telephone exchanges.
- (56) Toys and games (manufacturing).
- (57) Umbrellas, parasols and canes (manufacturing).
- (58) Flexible space developments as provided in Section 35.1-43.14.
- (59) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. The following uses shall be permitted as accessories to principal uses in the restricted industrial districts:

- (1) Residential quarters for bona fide caretakers or watchmen and their families.
- (2) Food service facilities expressly designed for the use of an establishment or group of establishments located in the district.
- (3) Recreational facilities for employees of establishments in the district.
- (4) Care centers for employer-sponsored child day care when located on the same property as the primary industrial use.
- (5) Retail stores, not including warehouse sales, planned and built as part of manufacturing or processing operation, dealing in the products produced in such operations, intended primarily for the exhibition and promotion of those products as well as their sale.
- (6) Warehouses and storage facilities, except as prohibited in Subsection 35.1-39(c) above; manufacturing uses, except as prohibited in Subsection 35.1-39(c) above, meeting other regulations of this section; wholesale establishments.

(f) Uses permitted by conditional use permit. The following uses shall be permitted as conditional use permit in restricted industrial districts under the regulations of Section 35.1-15 and Article X of this ordinance:

- (1) Heliports, helistops and STOL-ports; provided, that such facilities meet all applicable federal, state and local regulations and are located at least one-half (1/2) mile from any residential district.
- (2) Motels and hotels.
- (3) Restaurants (serving wholly within an enclosed building, with only incidental carry-out service.)
- (4) Public and community recreation facilities.
- (5) Arenas, auditoriums or stadiums.

(g) Standards.

- (1) Height regulations. The height regulations shall be the same as those required for a business B-4 district, Section 35.1-37.
- (2) Yards. The yard requirements shall be the same as those of a business B-5 district, Section 35.1-38.
- (3) Area regulations. No tract of land less than two (2) acres shall be placed in this zoning category; however, tracts already zoned "I-1" may be extended in increments of any size.
- (h) Signs. (As provided in Sections 35.1-26 through 35.1-26.16)
- (i) Parking requirements. Off-street parking and loading as required and regulated by Section 35.1-25 of this ordinance.

Sec. 35.1-43.2. Commercial corridor overlay district (CC).

(a) Intent. This district is intended to protect and promote the health, safety and general welfare of the public; to enhance the visual appearance of the corridor; to protect and promote the appearance, character and economic values along the corridor and the surrounding neighborhoods.

Furthermore, the district is intended to maintain the long term function of arterial and collector roadways; to limit access and the number of conflict points; to promote vehicular circulation; and to promote prevention or reduction of traffic congestion and danger in the public streets.

Additionally, the district is intended to encourage land assembly and the most desirable use of land in accordance with the General Plan; to encourage designs that produce a desirable relationship between individual sites, the circulation system, and adjacent areas; to permit a flexible, efficient response to development of a variety of land uses and activities of high value.

(b) District boundaries. The commercial corridor overlay district boundaries shall be as described in the ordinance as adopted by city council.

(c) Establishment of districts. The commercial corridor overlay district shall be in addition to and shall overlay all other zoning districts where it is applied so that any parcel of land lying in the commercial corridor overlay district shall also lie within one or more of the other zoning districts provided by this ordinance. The effect shall be the creation of new zoning districts consisting of the regulations and requirements of both the underlying district(s) and the commercial corridor overlay district.

(d) District standards. Where the standards of the commercial corridor overlay district and the underlying district(s) differ, the more restrictive standard shall apply.

(e) Exemption to standards. Single and two family residential uses shall not be subject to the standards of the commercial corridor overlay district. However, at such time that a single or two family residential use is to be converted to another use it will be subject to the standards of the commercial corridor overlay district.

(f) Uses permitted by right. The uses permitted in the commercial corridor overlay district shall be the same uses permitted in the applicable underlying zoning districts.

(g) Permitted accessory uses. The accessory uses permitted in the commercial corridor overlay district shall be the same as the accessory uses permitted in the applicable underlying zoning districts.

(h) Uses permitted by conditional use permit. The conditional uses permitted in the commercial corridor overlay district shall be the same as the conditional uses permitted under the applicable underlying zoning districts.

~~(i) Parking lot landscaping. All development sites shall landscape an area equivalent to fifteen (15) percent of the total area of the parking lot. The landscaping material shall be at least four (4) feet in height at the time of planting and at least five (5) feet in width at maturity. The location of such landscaping shall be around the building perimeter and within the parking lot or in such locations as are approved by the city.~~

~~(j) Street tree landscaping. In all instances where commercial and/or multi-family residential districts are adjacent to any public streets, participation in the city's street tree program is required. Participation will be according to the master street tree plan for the street frontage(s) or, lacking a plan for the specific area to be developed, at the direction of the city horticulturist.~~

~~(k) Vegetative buffering. In all instances where commercial and/or multi-family residential districts are adjacent to single-family residential districts, and in all instances where commercial districts are adjacent to multi-family residential districts, there shall be established within the commercial and/or multi-family district, as applicable, a screened yard of vegetative buffering between the districts. Planting design for vegetative buffering shall be as follows:~~

~~(1) The arrangement and spacing of the vegetative buffer shall be provided in such a manner as to effectively screen the activities of the subject lot. It shall generally be provided along the property line, unless topographic or other considerations would make it more effective if located back from the property line. The vegetative buffer will consist of a staggered evergreen tree line with a baseline filler of medium height evergreen or semi-evergreen shrubs. The evergreen tree line shall be staggered ten (10) feet on center.~~

~~(2) The evergreen tree material shall be at least four (4) feet in height at the time of planting. The trees and shrubs shall be of a live species as approved by the city horticulturist as being appropriate for screening purposes.~~

~~(l) Tree preservation. Preservation of existing trees is encouraged to provide continuity, improved buffering ability, pleasing scale and image along and within the commercial corridor overlay district. Any healthy existing tree may be included for credit toward the requirements of paragraphs (i), (j) and (k) of this section provided that the intended effect of the section is maintained.~~

~~(m) (i) Location of off-street parking facilities. To ensure adequate space when the vegetative buffer is required, No paving or off-street parking facilities shall be located within twenty-five (25) feet of any single-family residential district.~~

~~(n) Screening of loading/storage/utility areas. All loading areas, outside storage areas, refuse storage areas and utility (i.e. electrical, mechanical, heating, air conditioning, ventilation equipment) areas must be wholly screened from view of all public streets and residential districts. Screening shall consist of either solid board fence, masonry wall, dense evergreen materials or such other materials as may be approved.~~

~~(o) (j) Exterior lighting. Exterior lighting shall be controlled so that no direct illumination will occur beyond any property line shared with a residential district.~~

~~(p) (k) Commercial districts and multi-family residential districts adjacent to single-family residential districts. In all instances where a commercial district and/or a multi-family residential district is adjacent to a single-family residential district there shall be required a sixty-five (65) foot setback within the commercial and/or multi-family residential district.~~

~~(q) (l) Front setback. The front setback is established at forty (40) feet. No parking will be permitted within twenty (20) feet of the front property line.~~

~~(r) (m) Frontage. The minimum frontage requirement along arterial and collector roadways for commercial districts is established at two hundred fifty (250) feet.~~

~~(s) (n) Access.~~

(1) Direct access. Any lot having frontage along an arterial or collector roadway shall be permitted and limited to one direct access to the arterial or collector roadway. The access shall be aligned with the existing cross-over, or as directed by the city technical review committee.

(2) Assembly of lots. If two (2) or more adjacent lots are placed under one ownership and or control such assembly of lots shall be permitted and limited to one direct access to the arterial or collector roadway.

(3) Additional direct access. Additional direct access to the arterial or collector roadway shall be provided (a) if required by the city technical review committee for safe access, or (b) if a minimum spacing of two hundred fifty (250) feet is maintained between entranceways provided on any one (1) lot. Additional direct access will be aligned with existing cross-overs, or as directed by the city technical review committee.

(4) Shared direct access. A fifty (50) percent reduction to the minimum frontage requirement will be permitted (a) with the provision of shared direct access onto the arterial or collector roadway with an adjacent lot having frontage on the arterial or collector roadway, or (b) with the provision that no direct access to the arterial or collector roadway is proposed.

(5) Existing lots. A reduction to the minimum frontage requirement will be permitted for existing lots of record established prior to the effective date of this section, provided:

a. The lot frontage is not reduced further than established prior to the enactment of this section; and

b. Shared direct access is provided onto the arterial or collector roadway with an adjacent lot having frontage on the arterial or collector roadway, or no direct access to the arterial or collector roadway proposed.

~~(t)~~ (o) Internal vehicular circulation. Commercial sites shall be designed to achieve direct and convenient vehicular access between adjacent commercial properties unless otherwise required by the city.

~~(u)~~ (p) Provision for shared direct access and internal vehicular circulation. The owner(s) of a lot(s) providing for shared direct access and or internal vehicular circulation shall make adequate provision by dedication, easements, covenants, restrictions, or other legal instruments for ensuring that such shared direct access and or internal vehicular circulation are provided for and maintained consistent with the regulations and intent of this section.

Sec. 35.1-43.3. Scenic corridor overlay district (SC).

(a) Intent. This district is intended to protect and promote the health, safety and general welfare of the public; to enhance the visual appearance of the corridor; to protect and promote the character and vistas, and prevent unnecessary clutter and congestion along the corridor and the surrounding neighborhoods.

(b) District boundaries. The scenic corridor overlay district boundaries shall be as described in the ordinance as adopted by city council.

(c) Establishment of districts. The scenic corridor overlay district shall be in addition to and shall overlay all other zoning districts where it is applied so that any parcel of land lying in the scenic corridor overlay district shall also lie within one or more of the other zoning districts provided by this ordinance. The effect shall be the creation of new zoning districts consisting of the regulations and requirements of both the underlying district(s) and the scenic corridor overlay district.

(d) District standards. Where the standards of the scenic corridor overlay district and the underlying district(s) differ, the more restrictive standard shall apply.

(e) Exemption to standards. Except as specifically noted, single-family, two-family residential uses, planned unit developments, cluster commercial developments, and mobile home parks shall not be subject to the

standards of the scenic corridor overlay district. However, at such time that a single-family, two-family residential use, planned unit development, cluster commercial development or mobile home use is to be converted to another use, it will be subject to the standards of the scenic corridor overlay district. Townhouse developments will be subject to the standards of the scenic corridor overlay district.

(f) Uses permitted by right. The uses permitted in the scenic corridor overlay district shall be the same uses permitted in the applicable underlying zoning districts.

(g) Permitted accessory uses. The accessory uses permitted in the scenic corridor overlay district shall be the same as the accessory uses permitted in the applicable underlying zoning districts.

(h) Uses permitted by conditional use permit. The conditional uses permitted in the scenic corridor overlay district shall be the same as the conditional uses permitted under the applicable underlying zoning districts.

~~(i) Parking lot landscaping. All development sites shall landscape an area equivalent to fifteen (15) percent of the total area of the parking lot. The landscaping material shall be at least four (4) feet in height at the time of planting and at least five (5) feet in width at maturity. The location of such landscaping shall be around the building perimeter and within the parking lot or, at the request of the developer, in such locations as are approved by the city.~~

~~(j) Street tree landscaping. In all instances where commercial, multi-family districts, industrial districts and mobile home parks are adjacent to any public streets, participation in the city's street tree program is required. Participation will be according to the master street tree plan for the street frontage(s) or, lacking a plan for the specific area to be developed, at the direction of the city horticulturist (mobile home parks shall be subject to this standard).~~

~~(k) Vegetative buffering. In all instances where commercial, industrial, multi-family residential districts and mobile home parks are adjacent to single-family and two-family residential districts, and in all instances where commercial, industrial districts, and mobile home parks are adjacent to multi-family residential districts, there shall be established within the commercial, industrial, multi-family district, and mobile home park, as applicable, a screened yard of vegetative buffering between the districts. Planting design for vegetative buffering shall be as follows:~~

~~(1) The arrangement and spacing of the vegetative buffer shall be provided in such a manner as to effectively screen the activities of the subject lot. It shall generally be provided along the property line, unless topographic or other considerations would make it more effective if located back from the property line. The vegetative buffer will consist of a staggered evergreen tree line with a baseline filler of medium height evergreen shrubs. The evergreen tree line shall be staggered ten (10) feet on-center. (In lieu of the baseline filler of medium height evergreen shrubs, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, curvilinear in form, providing a gentle tie-in with the existing grade. The minimum height shall be three (3) feet.)~~

~~(2) The evergreen tree material shall be at least six (6) feet in height at the time of planting. The evergreen shrubs shall be at least two (2) feet in height at the time of planting. (Mobile home parks shall be subject to this standard.)~~

~~(l) Tree preservation. Preservation of existing trees is encouraged to provide continuity, improved buffering ability, pleasing scale and image along and within the Scenic Corridor Overlay District. Any healthy existing tree may be included for credit toward the requirements of paragraphs (i), (j) and (k) of this section provided that the intended effect of the section is maintained.~~

~~(m)-(i) Location of off-street parking facilities. To ensure adequate space when the vegetative buffer is required, No paving or off-street parking facilities shall be located within twenty-five (25) feet of any residential district.~~

~~(n) Screening of loading/storage/utility areas. All loading areas, outside storage areas, refuse storage areas and utility (i.e., electrical, mechanical, heating, air conditioning, ventilation equipment) areas must be wholly screened from view of all public streets and residential districts. Screening shall consist of either solid board fence, masonry wall, dense evergreen plant materials or, at the request of the developer, such other materials as may be approved by the division of inspections.~~

~~(e)~~ (j) Exterior lighting. Exterior lighting shall be controlled so that no direct illumination will occur beyond any property line (no exemptions to this standard.)

~~(p)~~ (k) Industrial, commercial and multi-family districts adjacent to single-family and two-family residential districts and limited access highways. In all instances where an industrial, commercial, or a multi-family residential district is adjacent to a single-family residential district, two-family residential district or a limited access highway, there shall be required a sixty-five (65) foot setback within the industrial, commercial or multi-family residential district.

~~(q)~~ (l) Setback. The minimum building and parking setbacks are established at forty (40) feet for lots abutting the public street on which the scenic corridor overlay district is centered. This setback shall be measured from the right-of-way line shared by the lot and the public street on which the scenic corridor overlay district is centered. This provision shall not be applicable to limited access highways.

~~(r)~~ (m) Utilities. All utilities shall be located underground.

~~(s)~~ (n) Building bulk softening effect. There shall be a building bulk softening effect created by landscaping between a structure and a limited access highway. Landscaping shall be at the outer boundaries and in the required yards and shall be provided except where driveways or other openings are required. Plantings shall be in an irregular (or "staggered") line. Clustering of plant and tree species shall be required. For the purpose of this section, the following definitions shall be applicable:

Large deciduous tree. A large deciduous tree shall be of a species having an average minimum mature crown spread of greater than thirty (30) feet. A minimum caliper of at least two and one-half (2/1-2) inches at the time of planting shall be required.

Small deciduous tree. A small deciduous tree shall be of a species having an average minimum mature crown spread of greater than twelve (12) feet. A minimum caliper of at least one and three-fourths (1/3-4) inches at the time of planting shall be required.

Evergreen trees. Evergreen trees shall have a minimum height of at least six (6) feet at the time of planting.

Medium shrubs. Shrubs and hedge forms shall have a minimum height of at least two (2) feet at the time of planting.

(1) For buildings twelve (12) feet or less in height (eave height).

(a) At least one small deciduous tree for each fifty (50) lineal feet and at least one evergreen tree for each thirty (30) lineal feet shall be planted.

(b) At least one medium shrub for each twenty (20) lineal feet shall be planted. (In lieu of the required shrubbery, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, curvilinear in form, providing a gentle tie-in with the existing grade. The minimum height shall be three (3) feet.)

(2) For buildings greater than twelve (12) feet in height (eave height)

(a) At least one large deciduous tree for each fifty (50) lineal feet and at least one evergreen tree for each thirty (30) lineal feet shall be planted.

(b) At least one small deciduous tree for each fifty (50) lineal feet shall be planted.

(c) At least one medium shrub for each twenty (20) lineal feet shall be planted. (In lieu of the required shrubbery, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, curvilinear in form, providing a gentle tie-in with the existing grade. The minimum height shall be three (3) feet.)

~~(t)~~ (o) Architectural treatment. No portion of a building constructed of unadorned cinderblock or corrugated and/or sheet metal shall be visible from any adjoining single-family or two-family residential district or public right-of-way. Buildings shall be designed to utilize to the greatest extent feasible building materials which are compatible with the scenic corridor overlay district environment, such as rock, stone, brick and wood. Vegetative buffering, as described in paragraph (k) of this section, placed along that portion of a building not otherwise meeting the requirements of architectural treatment, will be deemed sufficient treatment for the purposes of this section.

~~(u)~~ (p) Signs.

(1) Restricted signs. The following types of signs shall be prohibited within the Scenic Corridor Overlay District:

- a. Billboards
- b. Portable signs
- c. Flashing (on and off) signs or any sign simulating movement on the interior or the exterior of a building
- d. Signs painted on building or premise
- e. Changeable copy signs
- f. Pennants, non-governmental flags, non-company/corporate logo flags, banners
- g. Roof signs (above line of roof)
- h. Signs which contain an off-site commercial motif not incidental to the use of the site (soda bottles, hamburgers, figures, etc.) or other outdoor commercial displays
- i. Signs which are not of a standard geometric shape or whose backing is not of a standard geometric shape

(2) Permitted signs. A unified system of signage and graphics shall be encouraged for each individual development. Signage concepts should be considered during the design of buildings. Size, height, location, material, and color should strongly relate to building and site design.

a. Each development shall be permitted one (1) detached free standing sign identifying the development and announcing only the name or location of the development and business names of tenants therein. One logo per sign shall be permitted. All tenant signs (individual signs for businesses in a development) shall be uniform in letter size and color.

b. For each independent development within an industrial park one identification sign shall be permitted on each fronting public street.

c. Directional signs indicating location of truck entrances, employee parking, shipping and receiving, and similar activities; provided that all such signs are located on the property of the business and no such signs exceed four (4) square feet in area. Directional signs shall contain no advertising.

d. The backing and support material of the face sign shall be of the same material as of that portion of the building which faces any adjoining single-family or two-family residential district or public right-of-way, or of a natural material (such as rock, stone, brick, wood).

e. Other signs such as real estate, political, etc., not specifically addressed in the scenic corridor overlay district standards are to conform to the regulations of the underlying districts.

Sec. 35.1-43.17. Development standards for flexible space developments.

(a) Area regulations.

The minimum lot area in flexible space developments shall be twenty thousand (20,000) square feet.

(b) Setbacks, frontage, and yard requirements.

- (1) The minimum front building setback shall be twenty (20) feet for lots abutting a public street. This setback shall be measured from the right-of-way line shared by the lot and the public street. This provision shall not be applicable to limited access highways.
- (2) When a flexible space development abuts a residential district, the minimum setback shall be one hundred (100) feet.
- (3) Frontage: the minimum lot width shall be one hundred (100) feet.
- (4) Side yard: fifteen (15) feet.
- (5) Rear yard: fifteen (15) feet.
- (6) Minimum separation between buildings on the same lot, when not separated by an interior roadway: thirty (30) feet.

(c) Bulk and lot coverage.

The maximum area permitted to be covered by buildings, structures, parking, and paved areas is seventy-five percent (75%).

(d) Utilities.

- (1) Utilities shall be located underground.
- (2) Rooftop mechanical equipment shall be located or screened so that it is not visible from the street.
- (3) Transformers, utility meters, junction boxes, conduits, and connections shall be enclosed or screened from view.
- (4) HVAC equipment mounted on the ground shall be screened so that it is not visible from the street.
- (5) Dumpsters shall not be located in prominent locations and shall be screened from view with opaque fences, walls, or evergreen plantings.

(e) Traffic and pedestrian circulation.

- (1) Separate entrances to and separate roadways within the flexible space development shall be provided for trucks and automobiles, unless, in the opinion of the city traffic engineer, the number and size of trucks expected to serve the uses in the development can be accommodated safely on the road network used by automobiles. Separate entrances shall be clearly marked.
- (2) Each occupant of a flexible space development shall have access only onto interior roadways.
- (3) The development shall be laid out so that individual buildings have access onto interior streets. Individual buildings or occupants shall not be provided with separate access points onto exterior roadways. Entrance(s) to the development shall serve all occupants and visitors.
- (4) The interior road circulation network shall be laid out to discourage cut-through traffic from adjacent developments or residential areas.
- (5) Pedestrian and/or bicycle routes, lanes, or paths shall be provided within the development to accommodate pedestrian and/or bicycle traffic between transit stops, parking areas, and buildings. Street design shall provide for the safety of pedestrians and bicyclists by clearly marking routes with striping and/or delineating them through the use of contrasting materials (e.g., bricks or pavers).

(6) Where a flexible space development abuts a street with transit service past the development, the development shall include a bus stop with shelter, unless the general manager of the Greater Lynchburg Transit Company, or its successor company, determines that a bus stop is not appropriate.

(7) The number of curbcuts onto interior roadways that serve as entrances to parking lots shall be limited to no more than two (2) per parking lot.

(f) Parking and loading requirements.

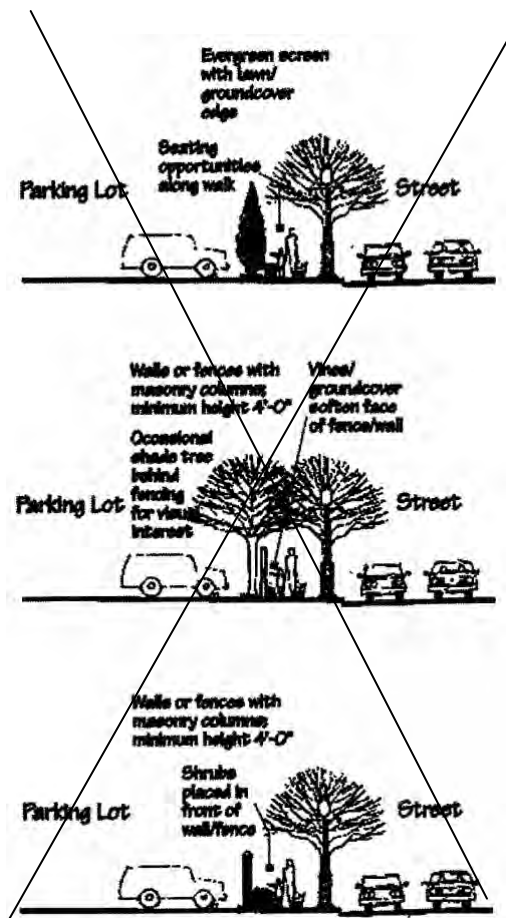
(1) Parking spaces shall be provided as required in Section 35.1-25 of the zoning ordinance.

(2) Handicapped and visitor/client/customer parking may be provided near the front entrance(s) of buildings. All other parking (i.e., employees, service personnel) shall be located at the side or the rear of the buildings.

(3) Parking shall be shared among occupants to the maximum extent feasible.

(4) ~~To ensure adequate space when a vegetative buffer is required, No~~ paving or parking facilities shall be located with twenty-five (25) feet of any residential district.

~~(5) Views of parking lots from streets shall be screened with hedges, low walls, or landscaped berms, as illustrated below (Sympoetica):~~



6. (5) Truck loading areas or docks shall be located on the side of the building away from public view or screened with landscaping, opaque fences, walls, or doors.

(g) Signs

As permitted in the underlying district(s).

(h) Exterior lighting.

Exterior lighting shall be controlled or glare-shielded so that no direct illumination will occur beyond any property line.

(i) Landscaping.

~~(1) Landscaping in a flexible space development is intended to enhance the appearance of the development, to make it attractive to potential occupants, to provide an attractive environment for employees and business owners, and to screen the development from any adjacent residential development(s).~~

~~(2) Preservation of existing trees is encouraged to provide continuity, improved buffering ability, pleasing scale and image along and within the flexible space development. Any healthy existing tree may included for credit toward the street tree, parking lot, and side or rear yard landscaping requirements, provided that the intended effect of those landscaping requirements is maintained.~~

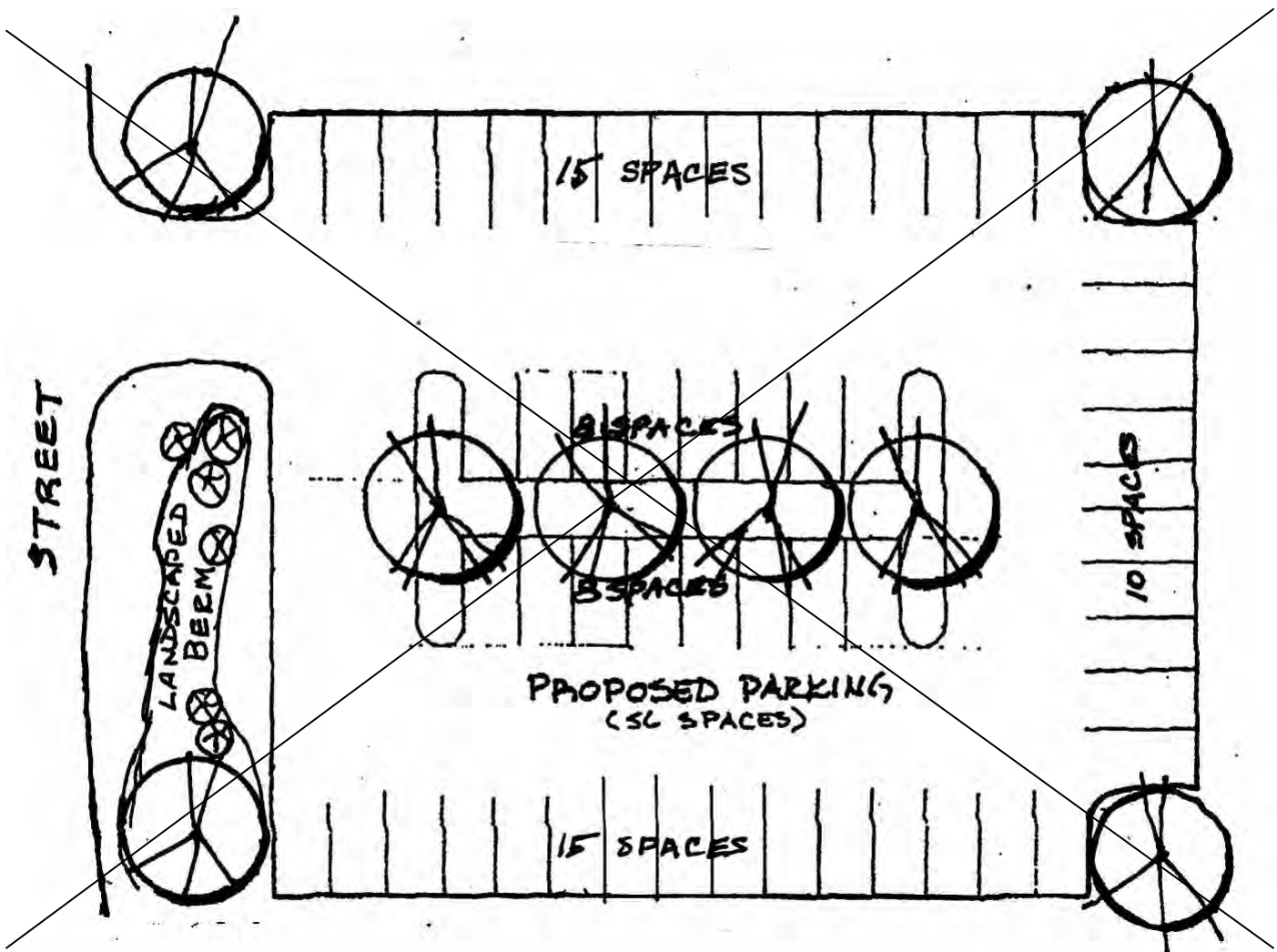
~~(3) Participation in the city's street tree program is required for property abutting exterior streets. Participation will be according to the master street tree plan for the street frontage(s) or, if there is no plan for the specific area to be developed, street trees are required along all interior and exterior roadways, planted forty (40) feet on-center.~~

~~(4) Landscaping in the front building setback shall be designed to enhance the appearance of the development and shall include shade trees as described in the master street tree plan. Planting design shall be prepared in consultation with the city horticulturist.~~

~~(5) In all areas of the flexible space development that are adjacent to other developments and/or visible from a public street, the side and rear yard setbacks shall be landscaped with an evergreen vegetative buffer consisting of a staggered evergreen tree line with a baseline filler of medium height evergreen shrubs. The evergreen tree line shall be staggered ten (10) feet on-center. (In lieu of the baseline filler of medium height shrubs, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, be curvilinear in form, and provide a gentle tie-in with the existing grade. The minimum height of the berm shall be three (3) feet.) The evergreen tree material shall be at least six (6) feet in height at the time of planting. The evergreen shrubs shall be at least two (2) feet in height at the time of planting.~~

~~(6) Each flexible space development shall landscape an area equivalent to fifteen (15) percent of the total parking lot area. The landscaping material shall be at least four (4) feet in height at the time of planting and at least five (5) feet in width at maturity. The location of such landscaping shall be around the building perimeter and within the parking lot or in such locations as are approved by the city.~~

~~(7) Shade trees shall be provided in parking areas at a rate of at least one shade tree for every fifteen (15) spaces, with the ends of every row of parking spaces capped with a tree as illustrated below:~~



Parking lots adjacent to streets shall have a landscaped irregular-shaped berm along the parking lot frontage.

(8) Foundation plantings shall be provided to achieve the proper focus on the front of each building, to soften the bulk of the buildings, to mitigate the effect of paved surfaces, and to complement the building architecture. Foundation plantings shall meet the following:

- _____ Plant material will meet American Association of Nurserymen (AAN) standards at the time of planting.
- _____ Plant selection should consist of a combination of evergreen, deciduous, and perennial species. Combinations of deciduous and evergreen species should provide greater seasonal change and interest.
- _____ An effective line planting consists of few species, in massed groupings, with a staggered placement.
- _____ Placement of low shrubs in front of taller ones adds a stepped effect in line plantings.
- _____ Minimum shrub size is a three-gallon container at the time of planting.
- One (1) square foot of planting area shall be provided per linear foot of building frontage on streets and parking areas. The planting area shall be a minimum of three (3) feet in width.

(9) (1) Where a flexible space development abuts a limited access highway, the area of the development abutting the highway shall be landscaped according to the requirements of Sec. 35.1-43.3 (s) Building bulk softening effect, as follows:

[Section 35.1-43.3(s)--There shall be a building bulk softening effect created by landscaping between a structure and a limited access highway. Landscaping shall be at the outer boundaries and in the required yards and shall be provided except where driveways or other openings are required. Plantings shall be in an irregular (or "staggered") line. Clustering of plant and tree species shall be required. For the purpose of this section, the following definitions shall be applicable:

Large deciduous tree. A large deciduous tree shall be of a species having an average minimum mature crown spread of greater than thirty (30) feet. A minimum caliper of at least two and one-half (2-1/2) inches at the time of planting shall be required.

Small deciduous tree. A small deciduous tree shall be of a species having an average minimum mature crown spread of greater than twelve (12) feet. A minimum caliper of at least one and three-fourths (1-3/4) inches at the time of planting shall be required.

Evergreen trees. Evergreen trees shall have a minimum height of at least six (6) feet at the time of planting.

Medium shrubs. Shrubs and hedge forms shall have a minimum height of at least two (2) feet at the time of planting.

(1) For buildings twelve (12) feet or less in height (eave height).

(a) At least one small deciduous tree for each fifty (50) lineal feet and at least one evergreen tree for each thirty (30) lineal feet shall be planted.

(b) At least one medium shrub for each twenty (20) lineal feet shall be planted. (In lieu of the required shrubbery, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, be curvilinear in form, and provide a gentle tie-in with the existing grade. The minimum height shall be three (3) feet.)

(2) For buildings greater than twelve (12) feet in height (eave height).

(a) At least one large deciduous tree for each fifty (50) lineal feet and at least one evergreen tree for each thirty (30) lineal feet shall be planted.

(b) At least one small deciduous tree for each fifty (50) lineal feet shall be planted.

(c) At least one medium shrub for each twenty (20) lineal feet shall be planted. (In lieu of the required shrubbery, a landscaped earthen berm can be used. Generally, the earthen berm shall have a varying width and height, be curvilinear in form, and provide a gentle tie-in with the existing grade. The minimum height shall be three (3) feet.)]

(j) Building types and materials.

(1) Types of buildings located in a flexible space development include: flex-tech, multitenant, office, and showroom, with space for storage, distribution, and related uses. These buildings are to be laid out in a business park or campus-like setting.

(2) Individual buildings are to be designed so they can be converted to other uses and reused.

(3) The main entrance of buildings shall be oriented toward the interior roadways, except for those buildings that are sited between the main exterior street and an interior roadway. These buildings may be oriented toward the exterior street. For buildings oriented toward an exterior street, the rear of the building shall be designed to complement the facades of adjacent buildings. A second entrance to accommodate employees and visitors may be provided on the side of the building facing the interior street.

(4) No portion of a building constructed of unadorned cinderblock or corrugated and/or sheet metal shall be visible from any exterior or interior roadway or from any adjacent residential or commercial development.

Buildings shall be designed to use to the greatest extent feasible building materials which are compatible with a business park or campus type of development, such as rock, stone, brick, and/or wood.

(5) No outdoor storage or processing shall be permitted in a flexible space development.

(k) Erosion and sediment control.

All flexible space developments shall comply with the requirements given in chapter 16.1, of the city code.

(l) Stormwater management.

All flexible space developments shall comply with the requirements given in chapter 16.2 of the city code.

Sec. 35.1-52.1. Cemeteries and columbariums.

In residential and commercial districts, cemeteries and columbariums permitted by conditional use permit shall meet the following standards:

(a) Cemetery plots and urns, shall be located a minimum of fifty (50) feet from the property line of any residential use or district and twenty-five (25) feet from any commercial district, with a vegetative buffer, ~~at least four (4) feet in height at the time of planting, in a location approved by the city's inspections division and the city horticulturist~~ shall be provided according to the regulations of Section 35.1-25.1.11, Buffering of this ordinance.

(b) Structures shall be located a minimum of fifty (50) feet from the property line of any residential use or district and twenty-five (25) feet from any commercial district with a vegetative buffer ~~at least four (4) feet in height at the time of planting, in a location approved by the city's inspections division and the city horticulturist~~ shall be provided according to the regulations of Section 35.1-25.1.11, Buffering of this ordinance.

(c) Driveways and parking areas shall be located a minimum of twenty (20) feet from the property line of any residential use or district and ten (10) feet from any commercial district.

(d) Access to cemeteries shall be from a main arterial street.

Sec. 35.1-54. Care centers.

Care centers providing day care only may be permitted by conditional use permit in residential districts if the following requirements are met:

(a) All state health department regulations for care centers or kindergartens shall be met.

(b) For persons over eighteen (18) years of age, there shall be an appropriately enclosed outside recreation area of not less than thirty (30) square feet per person enrolled; for persons eighteen (18) years of age or less, there shall be an appropriately enclosed recreation area of not less than seventy-five (75) square feet per person using the recreation area at any one time.

(c) The movement of traffic through the street on which the facility is located shall be capable of being controlled to the degree necessary to allow ingress and egress by small children.

(d) The minimum area and frontage regulations shall be the following in all districts except where the center is a part of a multifamily building or group of buildings:

Number of persons enrolled	Lot size (square feet)	Frontage (feet)
6 to 10	7,000	70
11 to 20	10,000	100
Over 20	500 per person	200

(e) Screening as specified in Section ~~35.1-23~~ 35.1-25.10 of this ordinance shall be provided, for the other perimeter of the parking and of the recreation area.

(f) Setbacks for the facility shall comply with the applicable zoning regulations of the district in which the facility is located.

(g) Minimum off-street parking and loading space shall be provided as follows:

A minimum of two (2) parking spaces is required for each care center; plus

Two (2) parking spaces for every thirty (30) persons enrolled.

(h) The planning commission may prescribe additional conditions which are necessary or desirable in its judgment.

Sec. 35.1-56. Cluster dwellings, cluster development with townhouse lots for sale and/or condominiums.

(a) Cluster dwellings permitted by conditional use permit in R-1 and R-2 districts shall meet the following requirements:

(1) Net density on the site shall not exceed that permitted in the district. No land with a slope over twenty-five (25) per cent shall be included in the calculation of this density.

(2) In all instances where a multi-family district is adjacent to a single-family residential district, there shall be in the multi-family district a landscaped setback between the two (2) districts. When a multi-family district and a single-family district abut on a side yard, rear yard or required front yard, there shall be required a setback equal to at least twice the required side yard of the abutting single-family district and a vegetative buffer at least four (4) feet in height at the time of planting and at least five (5) feet in width at maturity shall be provided according to the regulations of Section 35.1-25.1.11, Buffering of this ordinance.

(3) Regulations governing yards, courts, and other features in Section 35.1-23 shall be complied with.

(4) Applicable regulations of the subdivision ordinance of the City of Lynchburg shall apply.

(5) Where clustering of dwellings is employed, the following regulations shall apply:

Land not placed in individual lots shall be dedicated to the City of Lynchburg or placed in the ownership and control of a homeowners' association capable of providing adequate maintenance.

(b) A cluster development with townhouse lots for sale shall meet the following minimum standards:

(1) Lot area: Each townhouse shall be located on a lot of not less than one thousand two hundred (1,200) square feet in area.

(2) Unit width: A minimum width of sixteen (16) feet per lot shall be maintained.

- (3) Front yard: There shall be a minimum ten (10) foot front yard (area between front door and front of lot, or parking area, or other common area).
- (4) Side yard: There shall be a side yard of not less than sixteen (16) feet in width at each end of a group of units (not to be shared between units).
- (5) Rear yard: There shall be a rear yard with a depth of not less than twenty-five (25) feet for each unit (not to be shared between units).
- (6) Lay-out: Facades must change front yards so that not more than three (3) abutting units will have the same front yard setback. No more than nine (9) townhouses shall be attached in a group.
- (7) Height regulations: Townhouse units shall comply with the standards of height regulations specified in the permitted zoning district of development.
- (8) Common areas: Walkways must be provided from each unit to public or common areas within the project such as refuse collection, recreation, and parking.
- (9) Perimeter yards: Each townhouse development shall have a perimeter yard on the rear and side property lines of the total site equal to at least twenty-five (25) feet, which may include the required side and rear yards for each townhouse, except where the development is within or abuts a single-family district, in which case the perimeter yard shall be at least fifty (50) feet. The required front yard for the zoning district in which the development is located shall apply for the townhouse development along the front property line of the total site which may include the required front yard for each townhouse.
- (10) Required yard measurement: All required yards for townhouse development shall be measured outwardly from the buildings toward the property lines.
- (11) Parking areas: All parking areas, driveways and/or common sidewalks and/or other common areas must be in addition to the required one thousand two hundred (1,200) square feet of lot area, and, further, no parking areas, driveways, common sidewalks and/or other common areas will be permitted in any required yards.
- (c) Management and ownership of common open space, property and facilities in townhouse cluster developments.
- (1) All common open space, properties, and facilities shall be preserved for their intended purpose as expressed in the approved plan. The developer shall provide for the establishment of a homeowners' association or corporation of all individuals or corporations owning property within the cluster development to ensure the maintenance of all common open space, properties and facilities.
- (2) All privately owned common open space shall continue to conform to its intended use and remain as expressed in the site plan through the inclusion in all deeds of appropriate restrictions to ensure that the common open space is permanently preserved according to the site plan. The deed restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.
- (3) All common open space as well as public and recreational facilities shall be specifically included in the development schedule and be constructed and fully improved by the developer.
- (4) The corporation or homeowners' association established to own and maintain common open space properties and facilities shall conform to the following requirements, and the developer shall obtain the approval of the city attorney as to acceptability of incorporation documents:

- a. The developer must establish the homeowners' association or corporation prior to the final approval, recording and sale of any lot.
 - b. Membership in the association or corporation shall be mandatory for all residents within the cluster development and the homeowners' association or corporation shall not discriminate by race, creed or sex in its members or shareholders.
 - c. The association or corporation documents shall set forth the purposes of the permanent organization under which common ownership is to be established; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the city; and the method of assessing the individual property for its share of the cost of administering and maintaining such common property.
 - d. The incorporation document shall set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.
 - e. All property in a cluster development shall remain under a single entity ownership of a developer or a group of developers, and shall not be leased or sold unless provision is made which ensures participation by the properties leased or sold in the retention and maintenance of common open space and community facilities. A certificate of compliance, indicating that such arrangements have been made, shall be issued by the agent of the city prior to the sale or lease of the property by the developer.
- (d) Cluster development of condominiums for sale. All condominiums for sale shall meet the requirements below:
- (1) Comply with the standards specified in the Code of Virginia, 1950, as amended.
 - (2) Area regulations of the permitted zoning district.
 - (3) Yard regulations of the permitted zoning district.

Sec. 35.1-56.1 Group homes.

The intent of the provisions for group homes is to promote housing opportunities for those individuals that have had difficulty in obtaining adequate housing.

Group homes may be permitted by conditional use permit in residential districts if the following requirements are met:

- (a) Any applicable state health department regulations or other regulatory licensing for group homes shall be met. [Note the exception of Section 35.1-11.8(d) for no more than eight (8) mentally ill persons and no more than four (4) aged, infirm or physically disabled persons.]
- (b) For residents over eighteen (18) years of age, there shall be an appropriately enclosed outside recreation area of not less than thirty (30) square feet per resident enrolled; for residents eighteen (18) years of age or less, there shall be an appropriately enclosed outside recreation area of not less than seventy-five (75) square feet per person using the facility at any one time.
- (c) The movement of traffic through the street on which the facility is located shall be capable of being controlled to the degree necessary to allow ingress and egress.
- (d) The minimum area and frontage regulations shall be the following in all districts except where the center is a part of a multifamily building or group of buildings:

Number of persons enrolled	Lot size (square feet)	Frontage (feet)
4 to 10	7,000	70
11 to 20	10,000	100
Over 20	500 per person	200

A facility for less than four (4) individuals shall comply with the definition of “family” of the zoning ordinance.

(e) Screening as specified in Section ~~35.1-23~~ 35.1-25.1.10 of this ordinance shall be provided, for the outer perimeter of the ~~parking and of the~~ recreation area.

(f) Setbacks for the facility shall comply with the applicable zoning regulations of the district in which the facility is located.

(g) Minimum off-street parking and loading space shall be provided as follows:

A minimum of two (2) parking spaces is required for each group home; plus

One (1) parking space for every eight (8) residents, or one (1) for every resident with a car, which is greater; and

One (1) parking space for every three (3) staff members.

(h) The planning commission may prescribe additional conditions which are necessary or desirable in its judgment.

Sec. 35.1-60. Kennels and other small animal raising and boarding.

Facilities for the raising and boarding of pets and small animals within the City of Lynchburg shall meet the following standards:

(a) The minimum parcel size shall be five (5) acres in R-C districts and one (1) acre in other districts where these facilities are permitted.

(b) No outside pen or run may be located within two hundred (200) feet of any lot line in a R-C District or within fifty (50) feet of a lot line in other districts.

(c) ~~Screening~~ Buffering at least as extensive as specified in Section ~~35.1-23~~ 35.1-25.1.11 shall be provided on side and rear lot lines.

(d) Disposal of wastes must ensure that streams and underground water will not be polluted by them and that odors and other emissions are not perceptible at lot lines.

(e) Outside lighting shall be shielded so that direct light does not shine beyond lot lines.

Sec. 35.1-62. Mobile home parks.

(a) Individual mobile homes not meeting regular building code regulations, but meeting requirements contained in the American National Standards Institute for Mobile Homes—Body and Frame Design and Construction, Installation of Plumbing, Heating, and Electrical Systems, must be located in mobile home parks as regulated herein containing not less than five (5) mobile home lots.

(b) Mobile home parks may be permitted in the R-C, R-1, R-2, R-3, and R-4 districts by conditional use permit if the following standards are met:

(1) The site shall contain no less than ten (10) contiguous acres. (2) The site shall be served by public sewerage and water supply adequate for the proposed development, and provision shall be made on each site for the proper connection of each mobile home to city sewer and water supply lines. All utility lines shall be placed underground.

(3) The site shall have access to at least one (1) collector street meeting the city's standards for cross-section and capacity. (4) The site shall be reasonably accessible to schools, shopping, employment, recreation areas, and police and fire protection.

(5) The site shall not include conditions of soil, ground water level, drainage or topography which could cause hazards to property or the health or safety of the occupants.

(6) Existing trees and shrubbery on the site shall be preserved to the greatest possible extent.

(7) Street widths and layouts shall conform to the subdivision ordinance of the City of Lynchburg.

(8) All mobile homes shall be located at least twenty-five (25) feet from any lot line and thirty (30) feet from any street right-of-way. The side and rear setbacks shall ~~be planted with screening~~ provide a buffer as specified in ~~Section 35.1-23~~ 35.1-25.1.11 of this ordinance where it is bounded by residential, commercial, or industrial development.

(9) Parking shall be provided in an amount of two (2) spaces per mobile home unit. At least one (1) space shall be provided within each individual lot.

(10) Maximum density shall be that prescribed for the district in which the park is located, except that no mobile home park shall exceed a density of eight (8) units per acre and mobile home parks in R-C districts may have a density of two and one-half (2 1/2) units per acre. No individual lot shall be less than four thousand (4,000) square feet for single-wide units and six thousand (6,000) square feet for double-wide units. Nor shall any lot have frontage of less than forty (40) feet on a paved access road at least twenty (20) feet in width leading to a public street. The minimum spacing between mobile homes shall be twenty (20) feet.

(11) Lot coverage may not exceed thirty (30) per cent.

(12) In mobile home parks containing more than twenty (20) units, usable recreation area totaling not less than ten (10) per cent of the total area of the park shall be provided.

(13) Each mobile home lot shall be provided with an outdoor living and service area. Such area shall be improved as necessary to assure reasonable privacy and comfort. The minimum area shall not be less than three hundred (300) square feet with at least a dimension of fifteen (15) feet and shall include a concrete or other hard surfaced terrace as a patio not less than two hundred (200) feet in area adjacent to the area designated for the mobile home.

(14) No existing mobile home park shall be extended except in accordance with these regulations.

(c) Service buildings.

(1) Such service buildings housing toilet and bathing facilities for men and women, with laundry facilities as are required by the plumbing code of the City of Lynchburg, Virginia, in Appendix (B) . Section B-5, pertaining to service buildings for mobile home and travel trailer parks shall be installed and maintained in all conditional use permit trailer-mobile home park special districts; and such parks shall comply with all sanitary and other requirements prescribed by law or regulation.

(2) No more than one (1) utility building of one hundred (100) square feet or less shall be permitted for each trailer-mobile home lot.

(d) Use permit required. In addition to the above provisions, a use permit shall be secured from city council for any such property to be used as a trailer-mobile home park. Should council find that such use: (1) will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use; (2) will not be detrimental to the public welfare or will not be injurious to property or improvements in the neighborhood; and (3) will be in accord with the land use plan of the City of Lynchburg, it shall issue such use permit, provided all other provisions of law and ordinance shall have been complied with. In granting any such use permit, the council shall designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the foregoing requirements and that it will continue to do so.

(e) Approval of site development plan required. Any application for development within this special district shall require review of the site development plan by the planning commission and approval by the city council.

Any petition for a trailer-mobile home park conditional use permit zoning district shall be submitted together with a preliminary site plan for the use of the same tract, so that both shall be considered simultaneously and, furthermore, so that approval of an application for conditional use permit classification shall be conditional upon approval of a site development plan.

(f) Signs. Signs shall comply with the provisions of district regulations as required for R-C, R-1, R-2, R-3, and R-4 districts.

Sec. 35.1-64. Nursing homes.

Nursing homes may be permitted by conditional use permit in residential districts if the following conditions are met:

(a) The nursing home shall meet all requirements of federal, state and other public agencies for physical facilities and administration organization.

(b) The proposed site shall have direct access to at least one (1) collector street or road of higher function but shall not be located on a heavily traveled arterial or freeway unless substantial screening is provided along such heavily traveled road. In general, road access must be adequate for the traffic expected to be generated by the proposed development.

(c) The minimum area and frontage regulations shall be the following in all districts except where the center is a part of a multifamily building or group of buildings:

Number of persons enrolled	Lot size (square feet)	Frontage (feet)
(4) to 10	7,000	70
11 to 20	10,000	100
Over 20	500 per person	200

A facility for less than four (4) individuals shall comply with the definition of "family" of the zoning ordinance.

(d) Screening as specified in Section ~~35.1-23~~ 35.1-25.1.7(e) of this ordinance shall be provided, for the ~~other~~ outer perimeter of the parking area.

(e) In all cases, the nursing home shall be no less than fifty (50) feet from any lot line.

(f) Minimum off-street parking and loading space shall be provided as follows:

A minimum of one (1) parking space is required for each three (3) patient beds;

One (1) parking space for each resident doctor plus;

One (1) parking space for each three (3) staff members.

(g) The design of the facility must be such that no sounds, smells or any other noxious emissions from such activities as kitchens or loading areas will become a nuisance to the community.

(h) Certification must be granted by the division of medical and hospital services of the State of Virginia.

(i) The southwest Virginia health systems agency has certified the need for a nursing home and the appropriateness of the location.

(j) The planning commission may prescribe additional conditions which are necessary or desirable in its judgment.

Sec. 35.1-69. Recreation facilities, public or community owned.

Public or community recreation facilities may be permitted by conditional use permit in residential districts if they meet the following conditions:

(a) Applicable requirements of this ordinance, including those relating to signs, lights, and off-street parking, are complied with.

(b) ~~Screening~~, Buffering as specified in Section ~~35.1-23~~ 35.1-25.1.11, Buffering of this ordinance, is provided between areas to be used for games, athletics, or other active recreation and adjacent residential areas.

(c) Swimming pools, tennis courts, and other facilities presenting potential dangers to the life and limb of children shall be provided with fencing capable of restricting access to such facilities at times when they are not supervised.

(d) Toilet, shower and dressing facilities shall be provided in locations and capacities appropriate to the proposed recreational use and in accordance with applicable standards of the department of health.

(e) The use of sound amplifying devices shall be restricted to that necessary for safety purposes.

Sec. 35.1-70.1. Sanitary or solid waste facilities.

Private and public sanitary or solid waste management facilities may be permitted by conditional use permit if the following requirements are met; provided, however, that the expansion of an existing public facility is exempt from these requirements:

(a) All sanitary or solid waste management facilities shall accept only waste materials which are generated within the City of Lynchburg; provided, however, that any existing private facility that is accepting waste generated by one of its industrial locations in an adjacent county at the time of the adoption of this ordinance may continue to do so.

(b) Private facilities shall be established only by and for the use of the industry generating the industrial waste in accordance with Sections 35.1-40(d)(7) and 35.1-41(e)(4).

(c) Existing private facilities as defined in Section 35.1-11.12(c) may expand by right in any zoning district, provided that the expansion meets all requirements of this section.

(d) All state and federal regulations must be complied with, all necessary permits be obtained, and copies of said permits be given to the superintendent of inspections, the city planner, and the city engineer.

- (e) The facility shall be located with direct access onto an arterial or collector street, except that existing private facilities and expansions shall be exempt from this requirement.
- (f) Fencing or natural barriers shall completely enclose the disposal area to prevent unauthorized disposal or salvage activities and to prevent waste materials from blowing onto adjacent properties.
- (g) The operation shall have a minimum setback of one hundred (100) feet from all adjacent property lines, except where the property abuts a residential zoning district, in which case a minimum setback of two hundred (200) feet shall be maintained.
- (h) Within the required setback of one hundred (100) or two hundred (200) feet, all existing vegetation shall remain undisturbed as a buffer, except for the cleared fire break which is fifty (50) feet in width. Where existing vegetation is sparse or nonexistent, a ~~staggered evergreen~~ vegetative buffer ~~at least ten (10) feet in width shall be established and maintained along the property line~~ shall be provided according to the regulations of Section 35.1-25.1.11, Buffering of this ordinance.
- (i) A plan shall be submitted to the city for review and approval indicating (1) how the area will be returned to a stable, natural state following the closure of the disposal operation, and (2) the intended future use of the site.
- (j) A recordation shall be made with the deeds of all affected parcels informing all future owners that the property was used for a sanitary or solid waste management facility, the types of materials disposed there, and the dates of its operation. Certification of such recordation shall be given to the superintendent of inspections, the city planner, and the city engineer.

Sec. 35.1-71. Schools, colleges, and vocational schools.

Schools, colleges, and vocational schools permitted by conditional use permit shall conform to the following requirements:

- (a) Minimum area, frontage and setback requirements.

- (1) Kindergartens.

Number of children enrolled	Lot size (square feet)	Frontage (feet)
Up to	55,000	50
6 to 10	7,000	70
11 to 20	10,000	100
Over 20	500 per child	200

- (2) Elementary schools. Minimum usable lot area: five (5) acres plus one (1) acre for each one hundred (100) pupils; frontage: two hundred (200) feet; setback: twenty-five (25) feet from all lot lines.

- (3) Junior high schools. Minimum usable lot area: ten (10) acres plus one (1) acre for each one hundred (100) pupils; frontage: three hundred (300) feet; setback: fifty (50) feet from all lot lines.

- (4) Senior high schools. Minimum usable lot area: ten (10) acres plus one (1) acre for each one hundred (100) pupils; frontage: three hundred (300) feet; setback: fifty (50) feet from all lot lines.

- (5) Colleges, junior colleges and universities. Grades above the level of twelve (12). Minimum usable lot area: fifty (50) acres plus one (1) acre for each one hundred (100) pupils; frontage: five hundred (500) feet; setbacks: one hundred (100) feet from all lot lines.

- (6) Schools with residence accommodations. In addition to meeting the area requirements enumerated above, schools with residence accommodations shall provide an additional five hundred (500) square feet of

usable lot area for each site resident. Residents shall include students, whether housed in dormitories, fraternity houses or other living quarters; staff members and their families; and caretakers and their families who sleep for any part of the school year on the zoning lot.

(7) Sources of potential nuisance factors, including cafeterias; power plants; kitchens; gymnasiums; unloading areas for supplies, food and garbage; and outdoor play areas shall be located a minimum of two hundred (200) feet from any residential zoning lot and shall be provided with buffer areas according to the regulations of Section 35.1-25.1.11, Buffering of this ordinance.

(8) Access drives shall be located at least forty (40) feet from any adjacent residential zoning lot.

(b) In any district, a school may be erected to a greater height than permitted in the schedule of regulations, provided that front, side and rear yards shall be increased one (1) foot for each foot by which such building exceeds the height limitation established for the district in which such building is located.

(c) The installation of a temporary modular classroom unit(s) at an existing school may be exempt from obtaining a conditional use permit (CUP) provided that the following conditions are met:

(1) the need for the classroom unit(s) shall be of an emergency nature, which need could not have been foreseen enough in advance to follow the usual CUP application/public hearing process;

(2) a written request describing the proposal and a site plan shall be submitted to the director of community planning and development;

(3) the classroom unit(s) shall be installed on a temporary basis to be in place no longer than the current school year. If, at the end of the current school year, it is determined that there is a continued need for the classroom unit(s) in that location, then a CUP petition shall be submitted; and the established CUP application/public hearing process shall be followed;

(4) the unit(s) shall be located on the school property in such a way as to minimize impact on the neighborhood;

(5) adequate landscaping shall be provided to buffer the unit(s) from adjacent residential areas; according to the regulations of Section 35.1-25.1.11, Buffering of this ordinance.

(6) the exterior lighting for the modular classroom units(s) shall be controlled so that direct illumination shall not be visible beyond the property line; and

The technical review committee (TRC) will review each request and make a recommendation to the director of community planning and development. If it is determined that all of the above conditions have been met, the director may issue a written approval for the installation of the classroom unit(s).

In the event of a substantive, later objection from the public, such administrative approval may be revoked by the director with referral of the matter to the planning commission and city council for a decision according to the established CUP application/public hearing process.

(7) the proposal shall comply with any additional conditions which are deemed to be necessary or appropriate by the director of community planning and development.

Sec. 35.1-73. Theaters, drive-ins.

Drive-in theaters developed within the City of Lynchburg shall conform to the following standards:

(a) The principal vehicular access for such use shall not be located on a freeway or local street, but shall be located on an arterial street or a collector street within one-quarter (1/4) mile of a freeway or arterial highway.

- (b) Such use shall not be so located that it will draw vehicular traffic to and through local street in nearby residential areas.
- (c) Such use shall not be located within five hundred (500) feet of a residential zoning lot.
- (d) Off-street reservoir space at the vehicular entrance for automobiles of patrons awaiting admission to the theater shall be equal to thirty (30) per cent of the capacity of the viewing area and sufficient vehicular entrances and exits shall be provided to prevent congestion.
- (e) Vehicular entrances and exits for such use shall be provided separately and shall be located not less than one hundred (100) feet apart.
- (f) Vehicular circulation shall be so designed as to permit only one-way traffic within the boundaries of the tract on which the theater is to be located.
- (g) The theater screen shall not be permitted to face a major highway and shall not be visible from any major secondary street within two thousand five hundred (2,500) feet. The viewing area shall be screened in such a manner that it cannot be observed from outside the property.
- (h) A wall or fence of adequate height shall be provided to screen the patrons and cars in attendance at said theater from the view of the surrounding property. The perimeter of said fence shall be ~~landscaped by a planting strip at least four (4) feet wide, densely planted with live shrubs or trees which are at least three (3) feet high at the time of planting and which are a type that is normally considered to be a good screening material~~ screened according to the regulations of Section 35.1-25.1.7(e) of this ordinance.
- (i) Individual loud speakers for each car shall be provided and no central loud speaker shall be permitted.
- (j) Exits and aisles and passageways leading to them shall be kept adequately lighted at all times when open to the public. Artificial lights shall be provided whenever natural light is inadequate.
- (k) All the requirements for outdoor theaters in other ordinances shall be met.
- (1) The following accessory uses may be permitted as incidental to and limited to patrons of the principal use
 - (1) Amusement park, kiddyland.
 - (2) Souvenir stands and booths.
 - (3) Refreshment stands and booths.

Sec. 35.1-74. Trailer parks, campgrounds.

Areas for the temporary location of travel trailers, self-propelled campers, tents, and other temporary and movable overnight accommodations may be permitted by conditional use permit in R-C and B-5 districts if the following conditions are met:

- (a) The proposed site shall contain at least ten (10) acres of area, with at least five thousand five hundred (5,500) square feet of land for each trailer site and shall provide at least four thousand (4,000) square feet of area in each trailer space, which shall have at least forty (40) feet of frontage on a paved access road at least twenty (20) feet in width leading to a public street. Every trailer must be parked at least twenty (20) feet from any other trailer.
- (b) The site shall be served by water supply and waste disposal systems acceptable to the state department of health.
- (c) The site shall have direct access to an arterial road.

(d) ~~Screening- Buffering~~ in accordance with Section ~~35.1-23~~ 35.1-25.1.11, Buffering of this ordinance shall be provided between areas used for the parking of trailers and any adjacent commercial or permanent residential uses.

(e) Trailer courts permitted under this section may not be used for the location of a trailer for more than thirty (30) days.

(f) The following services shall be provided.

(1) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and trailer lots within the court. Each lot shall be provided with a cold water tap. Waste from this supply shall be emptied into a drain connected to an approved disposal system.

(2) Toilet and other sanitary facilities shall be provided for males and females and shall either be in separate buildings or shall be separated, if in the same building, by soundproof walls; shall be marked with appropriate signs; and shall have doors at least eight (8) feet apart. Each toilet and each shower stall shall be in a private compartment or stall.

(3) Toilet facilities for males shall consist of not less than one (1) flush toilet, one (1) urinal, one (1) shower with a dressing compartment with at least nine (9) square feet, and one (1) lavatory for every ten (10) trailers or fraction thereof.

(4) Toilet facilities for females shall consist of not less than one (1) flush toilet, one (1) shower with a dressing compartment with at least nine (9) square feet and one (1) lavatory for every ten (10) trailers or fraction thereof.

(5) Suitable laundry facilities shall be provided.

(6) An adequate supply of hot and cold running water shall be provided for each shower, lavatory, and laundry.

(7) Service buildings housing the toilets and sanitary facilities shall be permanent structures complying with all applicable ordinance and statutes regulating buildings, electrical installation, and plumbing and sanitation systems and shall be located not closer than twenty (20) feet nor further than two hundred (200) feet from any court unit.

(8) All service buildings and the grounds of the court shall be maintained by the licensee or his agent in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

(9) Waste from showers, bathtubs, flush toilets, urinals, and lavatories in service and other buildings within the court shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer and disposal plant or septic tank system of such construction and in a manner approved by the city department of health.

(g) Development in trailer parks must meet all other applicable regulations in this ordinance.

3. That this ordinance shall become effective on its adoption.

Adopted

Certified:

Clerk of Council

The Department of Community Development
City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission

From: Planning Division

Date: April 12, 2006

Re: **REZONING: LANDSCAPING ORDINANCE – Adopt Section 35.1-25.1, Landscaping, Section 35.1-25.1.1, Severability Clause, Section 35.1-25.1.2, Applicability, Section 35.1-25.1.3, Definitions, Section 35.1-25.1.4, General Regulations, Section 35.1-25.1.5, Landscaping Plan Required, Section 35.1-25.1.6, Residential Street Tree Landscaping, Section 35.1-25.1.7, Parking Area Landscaping, Section 35.1-25.1.8, Street Trees for Multi-Family, Commercial and Industrial Districts, Section 35.1-25.1.9, Foundation Plantings, Section 35.1-25.1.10, Utility Screening, Section 35.1-25.1.11, Buffering, Section 35.1-25.1.12, Tree Canopy Requirements, Section 35.1-25.1.13, Installation, Section 35.1-25.1.14, Maintenance, Section 35.1-25.1.15, Stormwater Quality Credit, Section 35.1-25.1.16, Alternate layout of landscaping.**

Amend Section 35.1-14, Site Plan Review, Section 35.1-23, Supplementary regulations (building projections, setbacks, etc.), Section 35.1-35, Local Neighborhood Business Districts, B-2, Section 35.1-38, General Business District, B-5, Section 35.1-39, Restricted Industrial Districts, I-1, Section 35.1-43.2, Commercial Corridor Overlay District, CC, Section 35.1-43.3, Scenic Corridor Overlay District, SC, Section 35.1-43.17, Development Standards for Flexible Space Developments, Section 35.1-52.1, Cemeteries and Columbariums, Section 35.1-54, Care Centers, Section 35.1-56, Cluster Dwellings, Cluster Development with Townhouse Lots for Sale and/or Condominiums, Section 35.1-56.1, Group Homes, Section 35.1-60, Kennels and other Small Animal Raising and Boarding, Section 35.1-62, Mobile Home Parks, Section 35.1-64, Nursing Homes, Section 35.1-69, Recreation Facilities, Public or Community Owned, Section 35.1-70.1, Sanitary or Solid Waste Facilities, Section 35.1-71, Schools, Colleges, and Vocational Schools, Section 35.1-73, Theaters, Drive-Ins, Section 35.1-74, Trailer Parks, Campgrounds

I. PETITIONER

The City of Lynchburg Planning Commission, 900 Church Street, Lynchburg, VA 24504

Representative: Tom Martin, AICP, City Planner, City of Lynchburg Planning Division, 900 Church Street, Lynchburg, VA 24504

II. LOCATION

The proposed Landscaping Ordinance will cover all properties within the City Limits zoned Multi-Family, Commercial, Industrial, properties requiring a Conditional Use Permit (CUP) in Single and Two-Family Residential Districts or the extension or construction of new City Streets.

Property Owners: N/A

III. PURPOSE

The purpose of the Landscaping Ordinance is to promote the public necessity, convenience, general welfare and good zoning practice by incorporating landscaping, screening and tree preservation requirements into the development review process. The goals are to provide landscaping requirements that will ensure development consistent with the goals of the Comprehensive Plan; reduce soil erosion; increase infiltration in permeable land areas to improve stormwater management; mitigate air, dust, noise and chemical pollution; reduce heat island effect; protect property values, provide buffers between incompatible uses; preserve existing natural vegetation as an integral part of the City and ensure that the City remains an attractive place to live, visit and work.

IV. SUMMARY

- Existing landscaping sections of the Zoning Ordinance are outdated.
- Adoption of a revised landscaping ordinance is supported by the *Comprehensive Plan*.
- Adoption of a revised landscaping ordinance will benefit the environment.

The Planning Division recommends approval of adopting the Landscaping Ordinance and amending pertinent Sections of the Zoning Ordinance.

V. FINDINGS OF FACT

- 1. Comprehensive Plan.** The Lynchburg *Comprehensive Plan* was adopted in September 2002. Throughout the planning process participants in meetings and workshops pointed to the following concerns for the built environment of the City: Minimal Landscaping and trees along streets and parking areas, Lack of buffering and poor transitions between commercial and residential uses and extensive clearing of mature trees and forested areas. (pg 6.4)

The Vision of the Comprehensive Plan states that “Lynchburg Residents-long term residents and newcomers’ alike-will appreciate the City as a great place to live, to raise a family, to learn and to work and prosper. People will talk about the City in many ways-as a City of trees and a City of hills, as a community rich in history and diverse in culture. As the dynamic center of the growing region, the City will be well known for its quality of life and economic vitality.” (pg 2.1)

There are numerous references to landscaping within the Comprehensive Plan; however the most notable references occur in **Chapter 6, Design, Character and Quality**. In summary the plan states that introducing higher quality landscaping benefits the community, benefits project residents, benefits commercial project tenants, benefits the real estate development community and most importantly the environment.
- 2. Zoning.** The current landscaping standards for “by right” uses were adopted in 1978. Additional landscaping standards were adopted for properties located in the Commercial Corridor (1989), the Scenic Corridor (1989), and Flexible Use Districts (2004)
- 3. Board of Zoning Appeals (BZA).** N/A
- 4. Previous Actions.**
 - February 23, 2006, Landscaping Ordinance Committee completes draft Landscaping Ordinance.
 - March 9, 2006, Citizen Monitoring Committee review of Landscaping Ordinance
 - March 22, 2006, Planning Commission Work Session on Landscaping Ordinance.
- 5. Site Description.** N/A
- 6. Proposed Use of Property.** N/A
- 7. Traffic.** Section 35.1-25.1.4(a) of the draft Landscaping Ordinance prohibits the planting of evergreen trees or shrubs in excess of three (3) feet in height within a site distance triangle. The draft ordinance also provides for the raising of tree limbs within the site distance triangle. These regulations will provide for adequate visibility of motorists at intersections.
- 8. Stormwater Management.** The City of Lynchburg is a Phase II Community as designated by the Environmental Protection Agency (EPA) based upon population density. This designation requires all developments within the City to control the quantity and treat the quality of all stormwater. Section 35.1-25.1.15, Stormwater Quality Credit of the draft landscaping ordinance provides that all landscaping required or preserved will receive a stormwater quality credit.
- 9. Emergency Services.** Section 35.1-25.1.12(f) of the proposed landscaping ordinance provides for the off site planting of trees when it is determined that Crime Prevention through Environmental Design Principles (CPTED) would facilitate the off site planting.
- 10. Impact.** The adoption of the proposed landscaping ordinance will benefit City residents, visitors and most importantly the environment. Adoption of the ordinance will also be an important step towards

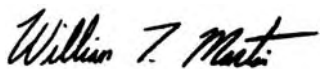
implementation of the City's Comprehensive Plan 2002-2020 and fulfilling "A Vision for Lynchburg in the Year 2020".

11. Technical Review Committee. N/A

VI. PLANNING DIVISION RECOMMENDED MOTION

Based on the preceding Findings of Fact, the Planning Commission recommends adoption of Section 35.1-25.1, Landscaping, Section 35.1-25.1.1, Severability Clause, Section 35.1-25.1.2, Applicability, Section 35.1-25.1.3, Definitions, Section 35.1-25.1.4, General Regulations, Section 35.1-25.1.5, Landscaping Plan Required, Section 35.1-25.1.6, Residential Street Tree Landscaping, Section 35.1-25.1.7, Parking Area Landscaping, Section 35.1-25.1.8, Street Trees for Multi-Family, Commercial and Industrial Districts, Section 35.1-25.1.9, Foundation Plantings, Section 35.1-25.1.10, Utility Screening, Section 35.1-25.1.11, Buffering, Section 35.1-25.1.12, Tree Canopy Requirements, Section 35.1-25.1.13, Installation, Section 35.1-25.1.14, Maintenance, Section 35.1-25.1.15, Stormwater Quality Credit, Section 35.1-25.1.16, Alternate layout of landscaping as part of the City's Zoning Ordinance and amending Section 35.1-14, Site Plan Review, Section 35.1-23, Supplementary regulations (building projections, setbacks, etc.), Section 35.1-35, Local Neighborhood Business Districts, B-2, Section 35.1-38, General Business District, B-5, Section 35.1-39, Restricted Industrial Districts, I-1, Section 35.1-43.2, Commercial Corridor Overlay District, CC, Section 35.1-43.3, Scenic Corridor Overlay District, SC, Section 35.1-43.17, Development Standards for Flexible Space Developments, Section 35.1-52.1, Cemeteries and Columbariums, Section 35.1-54, Care Centers, Section 35.1-56, Cluster Dwellings, Cluster Development with Townhouse Lots for Sale and/or Condominiums, Section 35.1-56.1, Group Homes, Section 35.1-60, Kennels and other Small Animal Raising and Boarding, Section 35.1-62, Mobile Home Parks, Section 35.1-64, Nursing Homes, Section 35.1-69, Recreation Facilities, Public or Community Owned, Section 35.1-70.1, Sanitary or Solid Waste Facilities, Section 35.1-71, Schools, Colleges, and Vocational Schools, Section 35.1-73, Theaters, Drive-Ins, Section 35.1-74, Trailer Parks, Campgrounds of the Zoning Ordinance.

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Capt. Michael L. Thomas, Fire Marshal
Mr. J. Lee Newland, Director of Engineering
Lt. Danny R. Marks, Lynchburg Police Department Field Operations Bureau
Capt. Todd Swisher, Lynchburg Police Department North Division
Capt. J.P. Stokes, Lynchburg Police Department East Division
Capt. Al Thomas, Lynchburg Police Department South Division
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Ms. Annette Chenault, Planner II
Ms. Nicole Gilkeson, Community Development Planner

VII. ATTACHMENTS

1. Proposed Landscaping Ordinance
(see attached ordinance)

2. Proposed amendments to pertinent Zoning Ordinance Sections dealing with landscaping
(see attached amendments)

MINUTES FROM THE APRIL 12, 2006 PLANNING COMMISSION MEETING

Consideration of adopting the Landscape Ordinance and amending related code sections.

Mr. Martin explained that the draft Landscape Ordinance was the result of five (5) months of work by the Landscape Ordinance Committee that was appointed by the Planning Commission. He thanked the members of that Committee for their hard work and many hours they had volunteered in helping draft this Ordinance. He told the Commission that the proposed Ordinance would help establish minimum requirements for street trees, parking area landscaping, foundation plantings, utility screening, buffering, installation, maintenance, and encourage the preservation of trees. He added that the adoption of the Ordinance would further the realization of the City's vision and goals of the Comprehensive Plan (Comp Plan), would protect the environment, benefit the community, benefit private and commercial project tenants, and real estate development in the City of Lynchburg. Mr. Martin said the proposed Ordinance had been revised at the direction of the Planning Commission at their March 23, 2005 work session. He said the Planning Division had received comments from Mr. Richard Jones, Assistant Director of Lynchburg City Schools, Facilities and Transportation, which they would review at this meeting. He added that the Planning Division had also identified two other minor items that should be clarified in the draft Ordinance, which they would discuss when appropriate. He noted that the Planning Division recommended approval of the proposed Landscape Ordinance and the subsequent amendments of the Zoning Ordinance dealing with setbacks and landscaping.

Mr. Martin said he would like to take this opportunity to point out that since the City had advertised to amend some of the other Ordinance sections, he wanted to look at the setbacks required for multi-family, residential, commercial and industrial districts from single-family residential uses. The problem they had been running into, he explained, was that there might be a commercial use adjacent to a property zoned residential, but the adjacent property was being used as a school or church or something of that nature. He added that the City was limited to the amount of available property, and pointed out that the City needed to identify ways to make the best use of that property. Mr. Martin noted that they wanted to look at the setback requirements for townhomes and see if there was a need to require a fifty- (50) foot setback or a twenty-five (25) foot setback. He told the Commission that if this was going to hinder or confuse the approval of the Landscape Ordinance, he suggested that they not deal with these additional items at this time, but it was the discretion of the Planning Commission.

Chair Hamilton asked Mr. Martin to review the comments submitted from the City Schools.

Mr. Martin said he received a letter from Mr. Jones on behalf of the City Schools on March 31 concerning the Landscape Ordinance revisions. Their comments were as follows:

Section 35.1-25.1.4 General Regulations (k) – Mr. Jones commented that this was a great addition to the Ordinance.

Section 35.1-25.5 Landscaping Plan Required – Mr. Jones suggested that a Tree Planting Detail be required, preferably the guidelines from Virginia Tech by Dr. Bonnie Appleton. He said soil amendments were not recommended when planting trees through the hydro discontinuity. He said a better recommendation would be from a soil sample, not soil amendments.

Mr. Martin said he thought either process would be appropriate.

Section 35.1-25.1.6 Residential Street Tree Landscaping – Mr. Jones suggested that the words “overhead utilities” should be added to this section.

Mr. Martin said that in section (c) the statement could be re-written to say: “Trees shall be placed in a manner to prevent interference with driveways, drainage areas and/or utilities – underground or overhead.

Section 32.1-25.1.13 Installation (c) – Mr. Jones suggested that the minimum caliper of the tree at planting be reduced to one (1) inch caliper. He said a smaller tree would adapt better and in time would outgrow a larger caliper of tree.

Mr. Martin said this was a point of much discussion during the work sessions with the Ordinance committee. He said they finally came to the agreement that one and one half (1.5) caliper tree would be beneficial. He said they wanted to plant something of substance at initial installation, so they agreed on one and a half.

Section 35.1-25.1.14 Maintenance – Mr. Jones said this was a great addition to the Ordinance.

Mr. Martin told the Commission that the two additional issues that needed to be revised in conjunction with the Landscape Ordinance were:

Buffer Areas on page 11 - a minimum height at planting of evergreen trees should be identified.

Section 35.1-25.1.2 Applicability (b) – Mr. Jones suggested rewording the section as follows:

REPLACE: “When an existing use is expanded, enlarged, or redeveloped only those portions of the property subject to the expansion are subject to the provisions of the Landscape Ordinance.”

REPLACE WITH: “Only those portions of the property subject to the expansion, enlargement, or redevelopment are subject to the provisions of the Landscaping Ordinance.”

Chair Hamilton asked if the City had a recommended minimum height for buffering.

Mr. Martin responded that currently, in by-right uses, when a buffer was required, the City required four (4) foot in height at the time of planting and in the Scenic and Commercial Corridors the City required six (6) foot in height at the time of planting. He added that six foot gave a more substantial buffer at planting.

Mr. Chris Wiley, Appalachian Power Company, addressed the Commission, and explained that he was a Utility Forester and a Certified Arborist with the International Society of Arboriculture. Mr. Wiley said he wanted to express his excitement and support of the Ordinance that was being proposed, and added that the Ordinance would have a tremendous impact on Lynchburg’s urban forest. He said it was a well know fact that trees and shrubs added a great deal to the beauty of any landscape, but planting the right tree in the wrong place was likely to be a costly safety hazard to the community and cause troublesome electric service interruptions as well. He commented that Appalachian Power and the language in the proposed Ordinance encouraged that special care be taken in the selection and placement of new trees in the vicinity of power lines. He added that Appalachian Power was very much involved in the urban forest in the City on a daily basis and was eager to see such a responsible proactive approach. Mr. Wiley said there was a lot of specific wording that would address their concerns and impact their business. However, he suggested the following change on Page 5 (j) in order to make the statement stronger:

“ . . height at twenty (20) year maturity would interfere with overhead utility lines, the Urban Forester ~~may shall~~ as part of the site development plan approval ~~allow require~~ the substitution of a tree with lesser maturity height. . .”

He said when APC pruned trees continually, the trees were not allowed to grow to their mature height, they had an altered shape, and a bad situation was created because of the safety hazard for the public. He said the change of wording would prevent a lot of inappropriate trees from being planted under the facilities and would make it safe for the trees to live. Mr. Wiley said he was excited about the statement concerning proper pruning. He said what a lot of customers wanted was not appropriate or healthy for the tree. He said it should help improve the education process in the community and help make the trees healthier.

Mr. Wayne Dahlgren, Chair of the Landscape Ordinance Committee, addressed the Commission. He said he was especially happy that the Commission had made their own changes to the Ordinance, which was the idea behind the Committee's work, and added that he fully endorsed all of those changes. He said he was disappointed that more citizens did not take an interest and participate in the public hearing process, and said he took that as a complement that the citizens were satisfied with the Ordinance and how it was written.

Commissioner Worthington said he still had a problem with letting the staff make decisions because the City may not always employ the current staff, and future staff members might not have the same vision as the current staff. He added that since this was a new ordinance, he would like to try letting the Commission make those kinds of decisions. However, he said, if at some point it became a problem, then they could figure out a different process at that time.

Mr. Martin said it would be appropriate if the Planning Commission wanted to reserve that authority for themselves. However, he said, he did not want to see the City put petitioners through a two or three month public hearing process in order to get an alternative landscape layout approved. He said the entire reason they were looking at that was because the landscape ordinance had to have set minimums for placement of landscaping, but if someone came in and had a great idea that still met the intent of landscaping their property, the City should have some leeway in allowing them to do that. Mr. Martin noted that whether the City Planner had that authority, or the Commission retained that authority, that was fine, but we needed to have some way to deal with those alternative plans. He added that this statement was a recommendation from the City Attorney. He noted that during the sign ordinance process, they included a statement saying that if an alternative sign package was submitted, it would be approved by CUP, so if there was some type of development with minimal requirements that was not working, there was a different process in place for that type of issue. Mr. Martin said that it is up to the Planning Commission to decide if they were comfortable with it, but if not it was up to the Commission's discretion to keep the amended or remove it.

Commissioner Flint said in the current Ordinance and on page 4, the City Planner already had the ability to make minor adjustments, and noted that there were other places in the current Ordinance where the City Planner had the authority to use his judgment. He added that he did not want to have too many petitions come to the Commission if it was the sort of thing that could be handled administratively, "Provided the spirit and intent of the Ordinance are preserved."

Commissioner Worthington said they may have trust in Tom but if there was a different City Planner that person could allow almost anything saying that it was the intent of the spirit.

Commissioner Sale said the caveat for Mr. Martin to change the ordinance was "provided that the spirit and intent" was there. He said the question would be whether that had happened or not and what recourse someone had if there was some violation of spirit and intent. He suggested that a phrase be added to the ordinance that any administrative approvals be reported to the Commission.

Commissioner Barnes said he understood Commissioner Worthington's concern and thought part of the dilemma was that they wanted to give flexibility and interpretation of the Ordinance to the City Planner, but there needed to be some oversight. He added that in the wording of the old Ordinance (bottom of Page 4) ". . . a general purpose of the comprehensive plan for development of the area. . . adjustments may be approved by the city planner with concurrence of the technical review committee." He suggested that they use some type of language allowing the City Planner to approve an alternative landscaping plan with concurrence of either the Technical Review Committee or the Planning Commission.

Chair Hamilton said that was a good suggestion; however, if the Planning Commission was giving concurrence or approval, the petitioner would be forced to go through the two or three month process, but if the TRC gave concurrence, then the petitioner's project would not be delayed.

Mr. Martin said the problem with the TRC was that it was made up of a lot of members from different areas who had no interest in the landscape plan. If there was an oversight needed, he said, the Planning Commission would be a perfect body to do that, and they could draft the Ordinance stating that the Planning Commission waive the requirements of making the petitioner go on to City Council. However, he added, when

this draft Ordinance does go to Council, they might request that the petitioner come before them if the petitioner wishes to submit an alternative landscape plan.

Commissioner Barnes restated his statement saying that "The City Planner, with the concurrence of the Planning Commission may approve an alternative layout."

Mr. Martin suggested that Mr. Erwin comment on Commissioner Barnes' suggestion.

Mr. Erwin said that would be fine with him.

Commissioner Oglesby asked the following questions:

Section 35.1-25.1.4 General Regulations (e) – Commissioner Oglesby pointed out that wood mulch was thicker than other mulch, and suggested that the statement be changed to "two (2) to three (3) inches."

Mr. Martin said there were differences of opinions, and the intent of this section was to be sure all areas were covered with some type of mulch. He said two or three inches would be appropriate.

General Regulations (g) 1. "Retaining walls less than eight (8) feet in height. . ." – Commissioner Oglesby suggested that the shrubs be planted every three (3) to five (5) feet to give the shrubs some breathing room and would fill in as they grow.

Commissioners said that change would give the petitioner a lot of leeway. They added that if fast growing bushes were planted they would fill in quickly. They said the City Planner could determine the appropriateness and bring it to the Commission.

Mr. Martin said this landscaping requirement only applied to a segmental block wall, so all that it was intended to do was screen that wall.

Mr. Martin asked if the Commission was intending to see every landscaping plan.

Commissioners commented that they did not intend to see every landscaping plan.

Commissioner Oglesby shared some photographs and made some suggestions concerning installing larger landscape islands. She said instead of planting one shade tree for every eight (8) parking spaces, that the requirement be changed to one shade tree for every sixteen (16) parking spaces in order to plant more grass around the trees. She said if the islands were wider, there would be more area to plant bushes, mulch, and grass. She said the smaller diamond islands take up part of four parking spaces.

Mr. Wiley commented that a larger island would be better for tree growth due to the water intake area being larger.

Mr. Martin said on Page two (2) of the draft Ordinance, the definition of Landscape Island with the square footage of one hundred eight (108) square feet, was only one single line of vehicles, or two hundred sixteen (216) square feet for a parking bay, which was a double row. He said the Landscape Ordinance Committee debated and came up with square footages of planting area. He said this area was quite a bit smaller than a parking space, with a normal 9 x 18 parking space being 162 square feet; two of those parking spaces would be 324 square feet. He said they were trying to work the islands in without actually taking up a full space so developers could get as much parking as possible on the site. So, he said 108 square feet is a little more than a 10' x 10' area for one tree. He said this was the minimum of what could be done.

Mr. Wendell Walker, 2421 Old Forest Road, addressed the Commission saying that he had taken the photographs that Commissioner Oglesby presented to the Commission, which were from the developments on

Wards Road. He said he was concerned that the developers had some flexibility with the percentage of landscape required. He added that plants grew better in larger areas.

Commissioner Flint asked if they were questioning the size of the landscape islands.

Commissioner Oglesby said it was the minimum and was just an idea.

Chair Hamilton asked if they were thinking that they should increase the minimum medium requirement to force developers to include more green space in those tree islands.

Commissioner Bacon pointed out that in Section 35.1-25.7.7 Parking Area Landscaping (d) "Wheel stops, curbing, or other barriers shall be provided to prevent damage to required landscaping by vehicular traffic."

Mr. Dahlgren explained that there were very diverse opinions concerning this requirement. He said that the business people want as much space as possible for parking, but also wanted appropriate sized islands in order for the vegetation to survive. He added that there were some people who wanted islands larger than what Commissioner Oglesby suggested. He said they were trying to come to a compromise between the business community and the other members on the Committee.

Commissioners decided to accept the Landscape Ordinance committee's suggestion as they had worked out a compromise that everyone was in agreement with.

Commissioners addressed the earlier comments in Section 35.1-25.11 Buffering (c) concerning the vegetative buffer height being between four (4) or six (6) feet tall bushes. They discussed the pros and cons of both suggestions and came to a consistence that four (4) feet tall would be tall enough and the buffer would grow and fill in adequately.

Commissioner Sale referred back to Mr. Martin's comments in Section 35.1-25.1.2 Applicability (b). They agreed that the words enlargement, or redevelopment should be added, so the sentence would read: "... portions of the property subject to the expansion, enlargement, or redevelopment are subject . . ."

Chair Hamilton asked Mr. Martin to direct the Commission to the issues of setbacks that was mentioned earlier in this meeting.

Mr. Martin responded that Section 35.1-23. Supplementary regulations (building projections, setbacks, etc.) (q), second paragraph was the beginning of the section concerning setbacks.

Chair Hamilton confirmed that all the statement was saying was that the vegetative buffer and the setback would conform to the draft Landscape Ordinance.

Mr. Martin explained that if there was an industrial district adjacent to a piece of property that was zoned for residential, but not being used for residential, a setback of one-hundred feet would not be required. He continued by saying that what they would have to have would be a setback that was required in an industrial district. He said the change would only effect paragraphs (q), (r), (s) and in Section 35.1-56. Cluster dwellings, cluster development with townhouse lots for sale and/or condominiums (9). Mr. Martin said all of the other changes referred to the Draft Landscape Ordinance.

Commissioner Flint asked about changes in Section 35.1-43.3. Scenic Corridor Overlay District (SC), (s) Building bulk softening effect.

Mr. Martin explained that the Building bulk softening effect was a requirement in the Scenic Corridor Overlay District, which was for buildings adjacent to a limited access highway where a landscape between the highway and the building would be planted to break up the bulk of the building. He added that those requirements did not get carried over into the new ordinance, and they did not want to delete them, so they left them where they were, which was in the Scenic Corridor and in the flexible use district.

Mr. William McRorie, 717 Court Street, made several comments to the Planning Commission concerning the Landscape Ordinance. Mr. McRorie said that if this Ordinance as it was currently drafted had been in place when River Ridge Mall was being constructed, that mall could have never been built due to the tightness of parking. He said there were other situations in the City where these requirements would make it impossible for some parcels to be developed and have adequate parking. He added that there were concerns with the requirement that shade trees be used in parking lots, which by definition would be thirty- (30) feet at maturity. He pointed out that in some of the pictures illustrated there was a 108 square foot island, and with a tree that would be higher than thirty- (30) feet, or a large shrub, which by definition, meant up to fifteen (15) feet, there would be a real issue as far as the ability for those plants to survive.

Mr. McRorie asked the Commission if they had considered plant groupings as opposed to what was currently proposed. He said in this ordinance where there was potential for screening necessary to the road, and the plantings within the parking lot itself with the limitations that the City had on the size and heights of signs, the City would have some difficulties. He mentioned Short Pump in Richmond, which must have a very similar Ordinance to what was being proposed here, where those plantings and trees were new, so they had a lot of growth to experience. But even now, he added, you really could not see signs, could not see the stores, could not identify where you needed to go, and you had to actually pull into the parking lot and turn around to find what you were looking for. He suggested that there needed to be a balance and an option, for example, if the developers could group the plants you might be able to be more creative and more efficient with the landscaping. In the current draft, Mr. McRorie noted, the requirements for line of sight, applied to a parking lot. He continued by saying that the City was talking about putting up trees that would make it difficult at intersections to be able to see. He continued by saying that even in triangle islands, there was a three (3) foot limit on shrubs and spacing on trees, but did not take into consideration that there was a large Sycamore tree planted there. He said the City and the Schools were presently planting trees that would interfere with utilities, so the City was not following it's own standards. Mr. McRorie pointed out the following items to see if the Commission had already dealt with them to their satisfaction.

- Mr. McRorie said there was a conflict between a statement made at the Commission's previous work session which indicated that the Commission's intention was not to regulate landscaping for one or two-family dwellings. He noted that on Page 12 of the draft the canopy requirements were outlined, and on Page 6 of the draft street requirements were outlined, which both did affect residential property.
- Mr. McRorie asked if in a parking lot, would an ornamental tree be more appropriate than a shade tree, given the size issue.
- Mr. McRorie said islands and medians would chop up the parking lot and would sacrifice the health of the trees and hurt the visibility and safety of people getting through the parking lot itself.
- Mr. McRorie said that in the illustration on Page 10, the trees violate the triangle or sight distance requirements.
- Mr. McRorie asked how citizens would know that there was a requirement for the property owner to maintain and replace plants that were required by this Ordinance, and how would they know whether the plantings in their yard were grandfathered.

Mr. McRorie said that in their last meeting, the Commission put a one-year limit on requiring the schedule in detail as to how the plants would be maintained, but the responsibility to maintain them would go on indefinitely. He said he was in favor of better landscaping, but not sure if the arbitrary placement of the islands and medians and chopping up the parking lot was going to do much more than create a lot of problems. He added that there should be more flexibility as to where the trees and plantings could be placed. He said he was not trying to fault or criticize anyone, but thought more time spent in looking at the pragmatic side of this Ordinance was necessary.

Commissioner Worthington asked Mr. McRorie if he had attended any of the committee meetings to express his individual views. He asked Mr. McRorie what his recommendation to the Commission would be if they did not pass the Ordinance at this meeting.

Mr. McRorie told the Commission that he did not go to any of the meetings, but had spoken to some of the people on the committee about his concerns. He said he would like for the Commission to not pass the Ordinance and work out some flexibility to help the Commission accomplish what they were trying to do. He said he thought there were still some problems with the Ordinance in requiring the rather small and inter dispersed placement of large trees in parking lots.

Commissioner Worthington said the nice thing about the Ordinance was that the Commission could go back at a later date and make changes if necessary. He added that this was a good attempt at improving the quality of life for the citizens of Lynchburg.

Chair Hamilton suggested that they address a few of Mr. McRorie's concerns, specifically concerning the tree canopy applying to residential sections. She commented that she thought it was for new subdivisions.

Mr. Martin explained that the only intent to regulate properties zoned R-1 and R-2 was for the residential street trees only. He said the Ordinance specifically said in Section 35.1-25.1-2 Applicability (c) that "It is not the intent of this Ordinance to regulate landscaping for one or two family dwellings." He commented that he was not sure how to be more clear than that. He told the Commission that if they wanted to, they could strike "R-C, R-1, R-2, and R-3 percentage requirements. He said they were not trying to regulate those in any way other than with street trees.

Commissioner Barnes said he understood that the percentages only applied to the City property and street trees and not the canopy or privately owned lots. He said it did not apply to residential property.

Chair Hamilton added that it only applied to new subdivisions that were built.

Mr. Martin concurred that it did not apply to one or two-family dwellings, but the street tree requirements were based on linear foot of new roadway, so they were establishing the minimum requirements.

Commissioner Flint said he liked large trees scattered through the parking lots in order to reduce the heat island effect. If the trees were grouped, he added, then less of the pavement would be shaded than if the trees were scattered out more. He said the trees needed to be hardy enough to withstand growing in pavement.

Commissioner Barnes said for that reason, they needed to encourage shade trees in parking lots as opposed to ornamental trees so they could maximize the reduction of the heat island effect.

Mr. Martin explained that the intent was to break up the large expanses of asphalt and to create shade to reduce the heat island effect and improve the environment by encouraging infiltration of stormwater. Mr. Martin showed some photographs of Pitman Plaza where people were parked under trees as opposed to being parked in the middle of the parking lot. He said the visibility under and around trees in parking lots did not pose a problem. He said that there was also no problem with the diagram on Page 3 violating sight distance. He read from the definitions on Page 3 for Sight Distance Triangle: "A straight line with unobstructed view measured fifty (50) feet along the edge of pavement lines from their points of junction with points being three (3) feet above the pavement edge." He then pointed out that on Page 4 Section 35.1-25.1.4 General Regulations (a) ". . . Landscaping within a sight distance triangle shall not include any evergreen trees, and shall not include shrubs exceeding three (3) feet in height above the ground at maturity. Tree limbs within a sight distance triangle shall be raised to ensure visibility for motor vehicle safety, but in no case shall tree limbs be raised more than sixteen (16) feet above the ground." He said that sixteen (16) feet was very ample for sight visibility.

Commissioners concurred with Mr. Martin in that there were no sight visibility problems due to trees being planted in parking islands in parking lots.

Mr. McRorie asked if in the example on Page 10 was a tree or a shrub.

Mr. Martin said that example showed a tree that would have a sixteen (16) foot sight line.

Mr. McRorie said the tree trunk would obscure the vision itself.

Commissioners concurred that a tree trunk would not obscure anyone's vision.

Chair Hamilton explained to Mr. McRorie that the issue of grandfathering of the Ordinance was something that they dealt with all of the time when Ordinances were revised. She said the beauty of this Ordinance was that it did not apply initially to a large number of parcels, so the City would not be forcing a new Ordinance on people who were already established as this was for new subdivisions only. She added that there is some nature of flexibility with parking lot landscaping, but in order to mitigate the environmental concerns that we have, such as the heat island effect and runoff, that minimum requirement is necessary and allowing the flexibility to do those groupings.

Commissioner Worthington said making the property more attractive. We do not want to have a lot of vacant buildings all over the City and the ones that are vacant, ranking them in attractiveness they are all at the end and if they were more attractive maybe more people would be attracted into the City and that is what we are ultimately trying to do.

Chair Hamilton said grandfathering would not be a huge maintenance issue for the City as far as enforcing this because it does only apply to new parking lots, new construction, and redevelopment.

Mr. McRorie said he thought in the Planning Commission's work session at their last meeting they said this would apply to City property except for schools and recreational areas. He asked what plan if any do we have to try to modify existing City facilities that do not meet the Landscape Ordinance if these things are desirable and we want to be a good model. Is there any plan or recommendation to do the same thing that we are trying to encourage new development to do.

Commissioner Barnes said he certainly hoped that when the City repaved or renovated an existing City parking lot, it would conform to the regulations.

Commissioner Worthington said this was an attempt and recognition that the City could do a better job. He added that they were trying to remind the City Council and the City that they needed to follow the rules that the Planning Commission and Council passed.

Mr. McRorie thanked the Commission for serving in this capacity and thanked them for letting him speak even though the opportunity for public comments had already passed.

Mr. Martin addressed some of the other comments made by Mr. McRorie. He said on the last page of the draft Ordinance Section 35.1-25.1.15 Stormwater Quality Credit – "All landscaping required by this Ordinance or preserved as shown on an approved site development plan, shall receive a credit towards meeting water quality requirements as required by the plan approving authority." He explained that with all stormwater management facilities there were water quality practices and measures. He added that the City required a Stormwater Maintenance Agreement that was recorded with the deed of the property, and since landscaping was part of the water quality, property owners would know first hand that they were going to have to maintain this as part of their property when purchased. That, he noted, would be how property owners knew to maintain and replace their landscaping if and when necessary.

Mr. Martin commented that the City had been very clear in the past that they fully intended to meet the same code requirements that were required of private development. He said as an example, he had just looked at the new Breezewood Drive extension in the last couple of weeks and they picked the type of tree to be planted. He continued by adding that the spacing for the trees was at forty- (40) feet on the entire new section of road. He added that this Ordinance was not arbitrary at all, but very clear.

Mr. Martin addressed Mr. McRorie's comments concerning the RiverRidge Mall not being able to be built due to parking area requirements. He said he would be happy to research the square footage of floor space and look at the parking ratios for the building. He added that he was pretty confident that the number of parking spaces exceeded the requirements of the Zoning Ordinance. Mr. Martin commented that he did not see how requiring a shade tree in that parking lot for every ten (10) to fifteen (15) spaces, would prevent the development of that property.

Mr. Martin said that as part of the existing Landscaping Ordinance the City had been requiring that trees be planted every ten (10) to fifteen (15) spaces. He added that he had been reviewing site plans for a long time, and there had never been a property that we not able to be developed because of the landscape requirements. He said it is not the City's intent to prevent development, but the intent to have the environment and development coexist with one another.

Mr. Martin asked for clarification of the tree percentages outlined on Page 12. He asked if it was the desire of the Planning Commission to strike the R-C, R-1, R-2 tree percentages? He said there could be townhomes developed in these zonings, which was why these zonings were included in the Ordinance. Mr. Martin added that churches and schools could be included in residential developments, which would require a CUP.

Commissioners agreed to leave the tree percentages for R-C, R-1, and R-2 in the Landscape Ordinance as written.

Commissioner Sale asked if this Ordinance would be applicable to the Capital Improvement Program.

Mr. Martin responded that this Ordinance would be applicable to projects that include landscaping. He said if City Council said that these standards must be followed, then they would be followed. When CIP projects were submitted, he added, the funding should be included for the landscaping and the Ordinance would have to be followed.

After discussion, Commissioner Barnes made the following motion, which was seconded by Commissioner Worthington and passed by the following vote:

"That the Planning Commission recommends adoption of Section 35.1-25.1, Landscaping, Section 35.1-25.1.1, Severability Clause, Section 35.1-25.1.2, Applicability, Section 35.1-25.1.3, Definitions, Section 35.1-25.1.4, General Regulations, Section 35.1-25.1.5, Landscaping Plan Required, Section 35.1-25.1.6, Residential Street Tree Landscaping, Section 35.1-25.1.7, Parking Area Landscaping, Section 35.1-25.1.8, Street Trees for Multi-Family, Commercial and Industrial Districts, Section 35.1-25.1.9, Foundation Plantings, Section 35.1-25.1.10, Utility Screening, Section 35.1-25.1.11, Buffering, Section 35.1-25.1.12, Tree Canopy Requirements, Section 35.1-25.1.13, Installation, Section 35.1-25.1.14, Maintenance, Section 35.1-25.1.15, Stormwater Quality Credit, Section 35.1-25.1.16, Alternate layout of landscaping as part of the City's Zoning Ordinance and amending Section 35.1-14, Site Plan Review, Section 35.1-23, Supplementary regulations (building projections, setbacks, etc.), Section 35.1-35, Local Neighborhood Business Districts, B-2, Section 35.1-38, General Business District, B-5, Section 35.1-39, Restricted Industrial Districts, I-1, Section 35.1-43.2, Commercial Corridor Overlay District, CC, Section 35.1-43.3, Scenic Corridor Overlay District, SC, Section 35.1-43.17, Development Standards for Flexible Space Developments, Section 35.1-52.1, Cemeteries and Columbariums, Section 35.1-54, Care Centers, Section 35.1-56, Cluster Dwellings, Cluster Development with Townhouse Lots for Sale and/or Condominiums, Section 35.1-56.1, Group Homes, Section 35.1-60, Kennels and other Small Animal Raising and Boarding, Section 35.1-62, Mobile Home Parks, Section 35.1-64, Nursing Homes, Section 35.1-69, Recreation Facilities, Public or Community Owned, Section 35.1-70.1, Sanitary or Solid Waste Facilities, Section 35.1-71, Schools, Colleges, and Vocational Schools, Section 35.1-73, Theaters, Drive-Ins, Section 35.1-74, Trailer Parks, Campgrounds of the Zoning Ordinance."

AYES:	Bacon, Barnes, Flint, Hamilton, Oglesby, Sale, Worthington	7
NOES:		0
ABSTENTIONS:		0

ABSENT:

0

Commissioner Sale made the following motion, which was seconded by Commissioner Barnes and passed by the following vote:

“That the Planning Commission show their appreciation to the Landscape Ordinance Committee for their hard work on this revision in the form of a letter.”

AYES:	Bacon, Barnes, Flint, Hamilton, Oglesby, Sale, Worthington	7
NOES:		0
ABSTENTIONS:		0
ABSENT:		0

THESE MINUTES ARE FROM THE MARCH 22, 2006 PLANNING COMMISSION WORK SESSION. THEY HAVE BEEN REVIEWED, BUT NOT APPROVED BY THE PLANNING COMMISSION.

DRAFT LANDSCAPE ORDINANCE

Mr. Wayne Dahlgren and Ms. Karin Warren, both members of the Landscape Ordinance Committee, were in attendance to explain the draft. Mr. Dahlgren said on behalf of the committee he thanked the Commission for the opportunity to work on the ordinance. He said there were several meetings of this Committee, which were open to the public as well as to the media. He said they had received comments and letters, which the Committee took into consideration when drafting the Ordinance. He said they were at this meeting to hear the Commission's comments and questions. Mr. Dahlgren added that if they could not answer the questions at this meeting, they would get back to the Commission with appropriate responses. He reminded the Commission that this was only a draft.

Ms. Warren added that there was a wide variety of interest groups involved in the committee, such as developers, environmentalists, contractors, local business persons, members of garden clubs, urban forester, tree stewards and more, so the group was well represented.

Mr. Martin told the Commission that the existing Landscape Ordinance was adopted in 1978, which was the City's first attempt at a citywide landscape ordinance. He said that Ordinance was very vague and lead to poorly landscaped sites. He noted that the City's Comprehensive Plan, adopted in 2002, stated that in the year 2020 Lynchburg would be a City of trees and a City of hills. He added that the Landscape Ordinance would help achieve that vision. Mr. Martin explained that throughout the workshops for the Comp Plan, participants voiced their concern with minimum landscape and trees along streets and parking areas; lack of buffering and poor transition between commercial and residential areas; extensive clearing of mature trees in forested areas; poor quality of stormwater facilities and detention ponds; the absence of facilities for pedestrians and bicyclers. Also during the Comp Plan process, he continued, the City did a Community Character Survey, which determined that the citizens of Lynchburg put great importance on quality landscaping, street trees, and foundation plantings. He said the development and environment needed to co-exist, and added that the update of this ordinance would require and provide for more green space and pervious areas.

Mr. Martin said the Landscape Ordinance committee was appointed by the Planning Commission in October 2005, and included members from very different backgrounds. He said the Committee followed the Freedom of Information Act; with all meetings being advertised as required, and was posted on the Internet, and on bulletin boards in City Hall. He noted that the media did attend several meetings and materials were furnished to those citizens who requested them. Mr. Martin said minutes were taken and the meetings were recorded, and added that the Committee tried very hard to make this an open process.

Mr. Martin said the committee reviewed landscape ordinances from ten different localities in Virginia and South Carolina. He said they looked in more detail at Amherst County, Charlottesville and the City of Roanoke's ordinances. He added that they used several publications and site plans from developments, both bad and good and discussed what worked and what did not work. He continued by explaining that the committee came up with goals that were consistent with the Comp Plan that would deal with soil erosion including stormwater management, mitigated air, dust, noise, and chemical pollution, reduced the heat island effect, protected property values, provided buffers, and ensured that the City remained an attractive place to live, visit and work.

Mr. Martin said the Landscape Ordinance would only apply to multi-family commercial or industrial construction or expansion. He explained that if a business had an existing parking lot and after the adoption of this proposed ordinance they added another one hundred (100) parking spaces, the landscape ordinance would only apply to the one hundred (100) new spaces, which was the intent of the committee. He added that existing businesses were grandfathered, meaning that nothing in the ordinance would force existing businesses to increase their landscaping. Mr. Martin noted that the Landscape Ordinance Committee focused on the following nine areas:

- Residential Street Trees
- Commercial Street Trees
- Parking Lot interior landscaping
- Parking lot screening
- Foundation plantings
- Incompatible use buffer
- Tree preservation
- Stormwater Management Facilities

- Installation and Maintenance of Landscaping

Mr. Martin said they discussed these items and decided on the basics of what should be contained in the Ordinance and drafted the Ordinance accordingly. He showed examples of good and bad landscaping that the Committee considered in drafting this ordinance.

Mr. Martin introduced Ms. Shanda Rowe, Chair of the Citizens Monitoring Committee, who was available to answer questions for the CMC if necessary.

Commissioner Flint asked if a builder's Certificate of Occupancy would be held if the developer did not fulfill his obligation in planting street trees in a new residential development.

Mr. Martin said it was important to separate the roads from the residential areas. He said street trees were in the right-of-way where residential trees were on private property. He explained that when a new street was constructed or an existing street was extended, then street trees would be provided. He continued by saying that when the road was dedicated over to the City, the trees would be dedicated as well. Mr. Martin added that when speaking of street trees within Commercial development and industrial and multi-family development, then those trees were on private property.

Mr. Martin reviewed the following comments, which were presented by the Citizens Monitoring Committee:

- A statement or statements clarifying that the ordinance had no application to residential properties.
- Check spelling and alter definition of "riprap" and use consistent spelling of the word throughout ordinance.
- Make provision for semi-permeable, weed retardant material in 35.1-25.1.3.(e).

Commissioners asked if even with the weed retardant material, could the mulch depth be less than three (3) inches. They suggested that the type of material be left to the developer or landscaper.

Mr. Martin said the mulch depth could be less. He added that there were different opinions and views on the fabric, adding that some people think it stops weeds and some people think it does not prevent growth of weeds. He said mulch or decorative stones would be sufficient.

- Make provision for rock and wood retaining walls in 35.1-25.1.3(g).

Mr. Martin said the intent of the committee was that there were certain materials that retaining walls should be built from that were acceptable and did not need to be screened. Those materials, he noted, were brick; segmental block; and stamped concrete, and added that a solid concrete wall should be screened with landscaping to soften the wall. The he said the CMC thought rock or wood should be added as acceptable materials to use.

Ms. Rowe said the CMC had several examples of wood and stone retaining walls that they found acceptable.

PLANNING COMMISSION'S COMMENTS: The Planning Commission wanted to clarify that the use of wood, rock, and stone retaining walls were acceptable with the exception of creosoted treated wood.

- Change "open areas" to "disturbed areas" in 35.1-25.1.3.(k).

Mr. Martin said the concern with this section was if there was a three (3) acre site and the developer was only going to develop one of those acres, leaving two (2) acres in it's existing state, then the two (2) acres of existing pasture would not be required to be landscaped.

Chair Hamilton asked who would make the determination if an existing pasture would or would not remain as is.

Mr. Martin explained that when a developer submitted a site plan the limits of clearing were shown on that site plan, which was a requirement. If the property was graded, he added, then it was considered disturbed land.

- Restrict requirements for amendments, fertilization and watering to within first year of planting.

Mr. Martin explained that the CMC thought the requirements for amendments, fertilization and watering within the first year of planting should be restricted. He said what the Landscape Committee intended was to ensure that an

effort was made to keep the landscaping alive for the first year, and added that a year would be a sufficient period of time.

Commissioners asked if the plants were installed and then died within the first year, were there any requirements to replace them in a 1-½ years to 2 years with this statement.

Mr. Martin said there was a requirement for replacement of landscaping that died. He said if there was a time of disease or drought, the City could delay the planting period and ask the developer/ owner to give the City a bond to insure that the plants did indeed get planted.

Commissioner Flint questioned Section 35.1-25.4. Landscaping Plan Required, saying that it did not seem appropriate to require all of the items – a through g – to be included on a preliminary landscape plan. He suggested that only a, b, and c be required on the preliminary plan, but not on the rest of the items until the final plan was required.

Mr. Martin said he understood Commissioner Flint's point and agreed to make the changes as suggested. It was agreed that items a through c would be required on the preliminary landscape plan, and items d through g would be required on the final site plan.

Commissioner Barnes commented that after the first year of planting, he assumed that most of the types of plants would be established. He asked if there were plants that would take more than one year to get established.

Mr. Martin said the City watered the trees for the first year. He said considering the maintenance requirements, it would be in the best interest to water the landscaping to keep it living as opposed to having to replace it, which would be much more expensive.

- Alter 35.1-25.5.(e) to reflect that at 50 percent of the sale of lots or at time of street construction rather than within 6 months.

Mr. Martin explained that there was a lot of discussion in the Landscape Ordinance Committee as well as among the CMC dealing with street trees during the time a street was constructed or extended, which was the time the trees were required to be planted.

Commissioner Flint asked when the bond would be released if a developer/owner was required to post a bond.

Mr. Martin responded that the bond would be released when the trees were actually planted.

Mr. Dahlgren said when the section was written it indicated that within six (6) months during the time of construction, the bond would be released. He added that some of the Committee members thought this should be based on the percentage of sales, so if the development was over fifty (50) percent built out, then the bond could be released. However, he concluded, it would be up to the Planning Commission to decide what percentage it should be.

Mr. Martin explained that a new residential street could be built and accepted by the City. He added that prior to the acceptance of the road by the City, the developer could install the trees, post a bond for the trees, related materials and the cost of installation, or make a cash payment to the City for the trees, related materials, and cost of installation. At that time, he noted, the City would then be responsible for planting, which would be done within a reasonable time period.

Commissioners suggested that the options be spelled out. The Commission also made the following recommendations and/or comments:

- Recommend that the Planning Division create a "Best Design Manual" to provide a catalog of design specifications for landscaping similar features as a supplement to the ordinance.

Mr. Martin said the Planning Division could put together a Best Design Manual, but noted that it was not needed for this process.

Chair Hamilton asked if they really needed a Design Manual.

Commissioner Barnes said he did not envision anything elaborate, but just visual examples for the developers to refer to.

Mr. Dahlgren explained that the intent was to give some ideas to the developers that they might want to consider and use.

The Commission indicated that they wanted the staff to develop the Best Design Manual.

- Change 35.1-25.6(c)3. such that landscape medians are a “minimum” of six (6) feet.

Mr. Martin said the landscape medians within parking lots should be a minimum of six feet in width. He said there was no minimum planting width defined for the parking area screening.

The Commission agreed with that change, saying that the width should be defined in the Ordinance. They asked Mr. Martin if he had a suggestion as to the minimum width of medians.

Mr. Martin suggested that a six-foot minimum width would apply in this instance.

- Change or remove the word “continuous” from 35.1-25.6(e)1.

Mr. Martin said this pertained to the parking lot screening. He added that the intent was to provide a screen. He said there was concern that the word “continuous” would mean that the vegetative screen would have to be touching at the time of planning.

The Commission agreed to remove the word “continuous” from the ordinance.

- Add the word “shall” (be curvilinear . . .) in 35.1-25.6.(e)3. and 35.1-25.10.(c).

The Commission agreed to add the word “shall” to this section.

- Add the word “shall” (be raised . . .) to 35.1-25.7..(c).

The Commission agreed to add the word “shall” to this section.

- Define “development site” in 35.1-25.11.(b).

Mr. Martin said the definition of “development site” was the disturbed area of the site. He said they could add a definition at the beginning of the ordinance.

- Review Section 35.1025.11.(f); committee members differed on opinion on this.

Mr. Martin explained that there was concern from the CMC relating to tree canopy banks for development in the downtown area. He said he thought the concern of some of the monitoring committee members was that downtown development was already expensive enough and the developer should not be required to provide that landscaping somewhere else in the City. He said his opinion was that, especially in the downtown area where there was so much pavement that was impervious and water quality was not being treated very well, landscaping should still be provided.

Commissioner Sale responded that it was a cost benefit issue.

Commissioner Barnes asked for an example of a situation like this.

Mr. Martin said that in the B-4 and B-6 districts of downtown with a zero (0) front yard setback, the buildings were built to the sidewalk, and in an urban environment like that, foundation plantings were not necessary. However, he said, this Ordinance would require foundation plantings. He explained that in the downtown district a percentage of trees could be placed in a tree canopy bank to be planted somewhere else within the City. That site, he added, would be approved by the City and could be for a stream bank remediation or another development site that the same developer was working on. Mr. Martin said that it could even be a roof top garden downtown.

Commissioner Worthington asked if that would cause developers to not develop in the downtown area. He said the City should not create too many obstacles for the developers.

Commissioner Sale said what they learned from the Comprehensive Plan was that the visual effect of landscaping in an urban environment was positive and enhanced development. He said developers might see it as a cost item in the short run, but in the long run the property would be more valuable. He said he did not think landscape issues would hamper development in the downtown area.

Mr. Dahlgren commented that if there was already a building on a site downtown, the building would not be torn down and a new building constructed. However, he added, it would be a different case on the riverfront, where some new buildings might be built. He said no matter how it was worded, if someone purchased an existing building to renovate, the purchaser would not be affected.

Ms. Warren said she did not think that the landscape requirements would dissuade development anywhere in the City. She added that the impression she got from developers on the Committee was that they wanted a clear outline of what to do, and landscaping was a small part of their development cost.

City Attorney Comments

- Clarify sections of the draft ordinance that gives administrative discretion to City Staff.

Mr. Martin explained that he had actually met with the City Manager and City Attorney recently and they reviewed the draft and re-worded some sections.

Commissioner Worthington asked if the topping of trees was prohibited. He asked if this would conflict with AEP, Verizon and Adelphia.

Mr. Martin reminded the Commission that AEP had reviewed the Ordinance and was happy with it. However, he added, after meeting with the City Manager and the City Attorney the wording was changed to the "Topping of Trees is Inappropriate". He said he would rather say that if a tree needed to be topped, that it be removed and replanted with an acceptable species that would survive near the power lines. Mr. Martin explained that they tried to provide for the replacement of trees. He added that in their defense, the City was starting to develop a good relationship with AEP and they were starting to call the City before they did any major tree work on the streets, which gave the City a chance to comment on the cutting of trees. He told the Commission that AEP had been very good to work with.

Commissioners agreed that the wording should be changed to "The topping of trees is inappropriate."

Mr. Martin said this ordinance revision was for only the trees planted under this Ordinance. All trees currently planted in the City are grandfathered in. He said the City was working very hard to ensure that the appropriate trees are planted in the appropriate place so that the City is not creating a situation where tree will interfere with power lines.

Commissioner Worthington said since this City had already been developed, then the Landscape Ordinance was not really applying to much of the City except only what was being redeveloped and anything new.

Mr. Martin asked Mr. Erwin's opinion on the maintenance concerning topping of trees.

Mr. Erwin responded that if someone elected to top their tree and as a result it died, then they had to replace the tree. He said this Ordinance was part of the Zoning Ordinance, and under the Zoning law anything that exists prior to the adoption of the Zoning Ordinance was grandfathered and did not apply retroactively. He said the new Ordinance would apply to new development only.

Commissioner Sale asked if this Ordinance was applicable to people who cut trees on City rights-of-way and destroyed them.

Mr. Erwin explained that AEP had a franchise agreement with the City which gave them permission to plant and install their lines in the public right-of-way. Also, he said, as part of their agreement, they said that they would comply with all City rules, regulations and ordinances. He continued by saying that once Council adopted this ordinance, AEP would have to be informed that part of their Franchise Agreement meant that they would have to comply with the new requirements. However, he said it got more complicated if they topped a tree on private property, and the owner of the property would have to take up the issue with AEP, because the City would expect the owner to replace the tree. He said of course AEP would not want to replant the tree, so between this combination, they could use this ordinance to restrict AEP from topping trees. He said if the City wanted to look at some type of Ordinance to protect trees that were already in existence, then the City would have to look at some other way of doing that rather than the Zoning Ordinance.

Mr. Martin said they would include it in the Ordinance

Commissioner Sale said defined parameters in the Ordinance were very helpful, and made it more understandable and reasonable. He said he encouraged some sort of preamble to the Ordinance concerning the grandfathering in of existing landscape.

Mr. Martin said since the Commission has just requested a preamble, he will prepare one for the Ordinance, but could not do so until the Commission directed him to draft one. He said he would include a statement noting that residential property would not be affected and grandfathered in. Mr. Martin said the Planning Division and/or Landscape Ordinance Committee thought the following sections should be changed:

- Sect. 35.1-25.9(c) Utility Screening - last sentence “. . . installation shall be sufficient to screen the equipment or activity ~~as determined by the City Planner.~~”
- Sect. 35.1-25.10(b) last sentence “. . . located back from the property line ~~as approved by the City Planner.~~”
- Sect. 35.1-25.12(d) Installation – the staff thought they should separate the Building Code and the Zoning Ordinance so they said that instead of “~~Prior to a Certificate of Occupancy~~”. . . said that “required landscaping shall be completed prior to occupancy in accordance with an approved development plan”
- Sect. 35.1-25.13(b) Maintenance “In the event required landscaping as shown on the approved site development plan is dead or damaged, it shall be replaced by the property owner ~~within six (6) months~~ after notification by the Zoning Administrator.” He said currently the property owner had thirty (30) days to replace them after notification, or they could submit a bond and the Zoning Administrator could accept the bond.
- Sect. 35.1-25.13(c) Maintenance – Topping of trees is ~~prohibited~~ inappropriate. Moved from (d) to (c). “D” will be eliminated.

The following language was added: “The City Planner may approve the modification to any part of this Ordinance provided that the spirit and intent of the Ordinance are preserved and the goals of Section 35.1 Intent “are ensured.” He said if there was some instance where the Ordinance needed to be modified a little, there would be some leeway to make the modification.

Commissioner Worthington said he was not in favor of the language.

Mr. Erwin said that language actually came from the Attorney's office. He said this language was similar to what the State put in the Uniform Statewide Building Code and the Uniform Statewide Fire Code. Basically what it does, he continued, was recognize that an Ordinance would never be drafted to address any situation that arose. He said the Building Code Official, the Fire Code Official, and in this case, the Zoning Officials, needed to have the flexibility to address certain situations that were not included in the Ordinance. He said if a citizen thought that the City Planner was being arbitrary, they had the right to go to the Board of Zoning Appeals. He said all interpretations of the Zoning Ordinance fell under their purview.

Commissioners Sale and Worthington said the current wording sounded like the City Planner could change the Ordinance any way he wanted to.

Mr. Martin said there needed to be some flexibility in the Ordinance. He explained that with the Sign Ordinance they created the consolidated Sign Package, where with a CUP, which would have been approved by Council, the petitioner could develop a different type of sign package for the over all development. He said they could do the same thing with the Landscape Ordinance, but it would add two (2) or three (3) months on a by-right development review.

Commissioner Barnes noted that it said “. . . modification to compliance with any part of this Ordinance.” So, he added, Mr. Martin would not be changing the Ordinance.

Mr. Dahlgren suggested that the statement be changed to say “approve an alternative”.

Mr. Erwin said they could tweak the wording of the Ordinance.

Commissioner Sale suggested that they use the word “application”.

Mr. Erwin suggested that they work on the wording and bring it back for the Commission to discuss at their public hearing.

Commissioner Sale asked if there would be any way to give incentives to developers who had projects approved by Council before this Ordinance came into play.

Mr. Martin said it depended on the types of incentives. He explained that if the incentive was financial it could not be done within the Zoning Ordinance. However, he continued, if the incentives were density or setbacks, it might be allowed, but it would need to be looked at separately.

Commissioner Sale said he wanted to keep that in mind and wanted to set a standard for all future things to be.

Commissioner Barnes said he agreed, but it would have to be the developer's choice.

Mr. Martin said the incentives and the Best Design Manual were things the City could work on in the future.

Mr. Martin said he had received the following comments from a citizen.

- How will the Ordinance address parking decks?

Mr. Martin: It would address them in terms of the parking deck being a building and they would be required to have foundation plantings.

- Clarify the use of wording for "business" vs. "commercial" for consistency.

Mr. Martin: He said they will look at the clarification before the Planning Commission's public hearing on this Ordinance.

- Ongoing requirements for maintenance.

Mr. Martin He commented that the Commission had already discussed this issue in great detail.

- Tree Canopy Banks.

Mr. Martin He noted that they had already discussed this issue, also.

- Shrub Size at planting

Mr. Martin He explained the reason they determined a size for shrub plantings was because a lot of times the developers were going out and specifying three (3) gallon plants on the plan and there would be a two (2) inch plant in a three (3) gallon container. He said they were not getting the correct landscaping required.

- Is there adequate staffing to enforce the Landscaping Ordinance

Mr. Martin He explained that this question also arose on the Sign Ordinance and we had calculations on the number of signs that were actually removed from the right-of-way. In any typical month when they began keeping track of the signage, they pulled out two hundred eighty-eight (288) signs out of the right-of-way in the first month; one hundred eighty-five (185) the next month, and the number of illegal signs had decreased since then. He said the enforcement has been working and he thought it will be the same with the Landscape Ordinance. He said the Zoning Administrators and Officials do a good job at enforcing our Ordinance. He said one of the Zoning Administrators had been before the Commission previously and the Commission seemed to be satisfied with their discussion.

Commissioner Flint asked about planting trees in the public utility easement.

Mr. Martin said they usually did not allow the planting of trees in the easements.

Commissioner Flint suggested that this should be stated in the Ordinance.

Mr. Martin said these comments and/or suggestions from this meeting would be incorporated by the staff into the next draft of the Ordinance. He added that he would send the new draft to the Commissioners for their review before the Public Hearing. At the Public Hearing, he continued, there might be comments from citizens, but at that point all of the Commission's comments will have already been addressed.

Chair Hamilton asked if any citizens attending this meeting would like to share their thoughts about the Landscape Ordinance.

No citizen in attendance at this meeting chose to address the Commission with comments or concerns.

MINUTES FROM THE MARCH 9, 2006 CITIZENS MONITORING COMMITTEE WORK SESSION

Committee Chairman Shanda Rowe called the meeting to order. Committee members were asked if they volunteered for the small group that had been formed at the last meeting to develop a strategy to address neighborhoods in the Midtown Master Plan; one name had been omitted from the previous meeting minutes. No additional committee members acknowledged that they had volunteered to be part of the small group.

City Manager, Kim Payne discussed his intent to merge the Public Works Engineering Division and the Community Planning and Development Department into a new Community Development Department. He offered his belief that an integrated approach to community development – building and rebuilding the City's 50 square miles to be the best it can be – is best achieved by merging the two groups. He said he was taking this message to various groups around the City and had, thus far, not heard any reason why he should not begin a national recruitment for a “really great” Director of Community Development. Committee members offered consensus support for the proposal.

Wayne Dahlgren gave an overview of the proposed Landscape Ordinance; he referenced the environmental benefits of landscaping as the impetus that many other localities in this region used to create similar ordinances.

Tom Martin solicited comment from committee members about the ordinance. Suggested changes included:

- A statement or statements clarifying that the ordinance had no application to residential properties.
- Check spelling and alter definition of “riprap” and use consistent spelling of the word throughout ordinance.
- Make provision for semi-permeable, weed retardant material in 35.1-25.1.3.(e).
- Make provision for rock and wood retaining walls in 35.1-25.1.3.(g).
- Change “open areas” to “disturbed areas” in 35.1-25.1.3.(k).
- Restrict requirements for amendments, fertilization and watering to within first year of planting.
- Alter 35.1-25.5.(e) to reflect at 50% of the sale of lots or at time of street construction rather than within a 6 months.
- Recommend that the Planning Division create a “Best Design Manual” to supplement ordinance that provides a catalog of design specifications for landscaping similar features.
- Change 35.1-25.6.(c)3. such that landscape medians are a “minimum” of 6 feet.
- Change or remove the word “continuous” from 35.1-25.6.(e)1.
- Add the word “shall” (be curvilinear ...) in 35.1-25.6.(e)3. and 35.1-25.10.(c).
- Add the word “shall” (be raised ...) to 35.1-25.7.(c).
- Define “development site” in 35.1-25.11.(b).
- Review Section 35.1-25.11.(f); committee members differed on opinion on this.

Committee members adjourned.

Section 35.1-25.1 Landscaping.

It is the intent of the Landscaping Ordinance to promote the public necessity, convenience, general welfare and good zoning practice by incorporating landscaping, screening and tree preservation requirements into the development review process. The goals are to provide landscaping requirements that will: ensure development consistent with the goals of the Comprehensive Plan; reduce soil erosion; increase infiltration in permeable land areas to improve stormwater management, mitigate air, dust, noise, and chemical pollution; reduce heat island effect; protect property values, provide buffers between incompatible uses; preserve existing natural vegetation as an integral part of the City and ensure that the City remains an attractive place to live, visit and work.

Section 35.1-25.1.1 Severability Clause.

As provided in Section 35.1-3, if any provision of the Zoning Ordinance regulating landscaping is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Zoning Ordinance regulating landscaping and all of such provisions shall remain in full force and effect.

Section 35.1-25.1.2 Applicability

- (a) The provisions of this Ordinance are applicable to the development or redevelopment of any property after the effective date of this Ordinance and located in an R-4, R-5, B-1, B-2, B-3, B-4, B-5, B-6, I-1, I-2 or I-3 District or to any use requiring conditional use permit approval.
- (b) When an existing use is expanded, enlarged, or redeveloped only those portions of the property subject to the expansion, enlargement, or redevelopment are subject to the provisions of the Landscaping Ordinance.
- (c) It is not the intent of this Ordinance to regulate landscaping for one or two family dwellings.

Section 35.1-25.1.3 Definitions.

Buffer: An area of land, including landscaping, or combination of landscaping berms, solid fences and/or walls that is located between land uses of different character and is intended to mitigate negative impacts of the more intense use.

Caliper: Trunk diameter measured six (6) inches from the ground. If the caliper is greater than four (4) inches, the measurement is taken twelve (12) inches from the ground.

Decorative Landscape Stone: Stone that has natural or manmade distinguishing characteristics such as color and shape. Decorative landscape stone may be used as mulch.

Development Area / Disturbed Area: All areas shown within the limits of clearing and grading on a site development plan.

Evergreen Tree: A tree or shrub that has foliage that persists and stays green throughout the year.

Foundation Planting: Trees and shrubs planted along and adjacent to the perimeter of a building.

Ground Cover: Any evergreen or broadleaf plant that does not generally attain a mature height of more than one (1) foot, characterized by a growth habit in which the plant spreads across the ground to connect with other similar plants forming a continuous vegetative cover on the ground. Sod & seeding shall be considered an appropriate ground cover.

Heat Island Effect: An elevated temperature over an urban area caused by pavement, buildings, other infrastructure and pollutant emissions

Landscape Island: An area containing required landscaping not less than one hundred eight (108) square feet for a parking row or two hundred sixteen (216) square feet for a parking bay.

Mulch: A protective covering, usually of organic matter placed around plants to prevent evaporation, root freezing and weed growth.

Naturalized Planting Area: Any area planted for bioretention containing native or indigenous species that mimics local natural surroundings and is allowed to grow undisturbed. Naturalized Planting Areas require minimal maintenance.

Ornamental Tree: Deciduous tree that grows to a mature height of less than thirty (30) feet with flowering or other distinguishing characteristics.

Parking Bay: Two (2) parking rows abutting one another.

Parking Row: One (1) single line of parking spaces.

Raising: Providing vertical clearance under tree canopy by using appropriate pruning techniques.

Riprap: A permanent, large, loose angular stone generally used for erosion and sediment control in concentrated high velocity flow areas.

Screening: A method of visually shielding or obscuring items such as a structure, receptacle, parking area, equipment, or stormwater management pond by densely planted landscaping, or a combination of landscaping, berms, solid fences and/or walls.

Shade Tree: Deciduous tree that grows to be more than thirty (30) feet at maturity and planted chiefly to provide shade from sunlight.

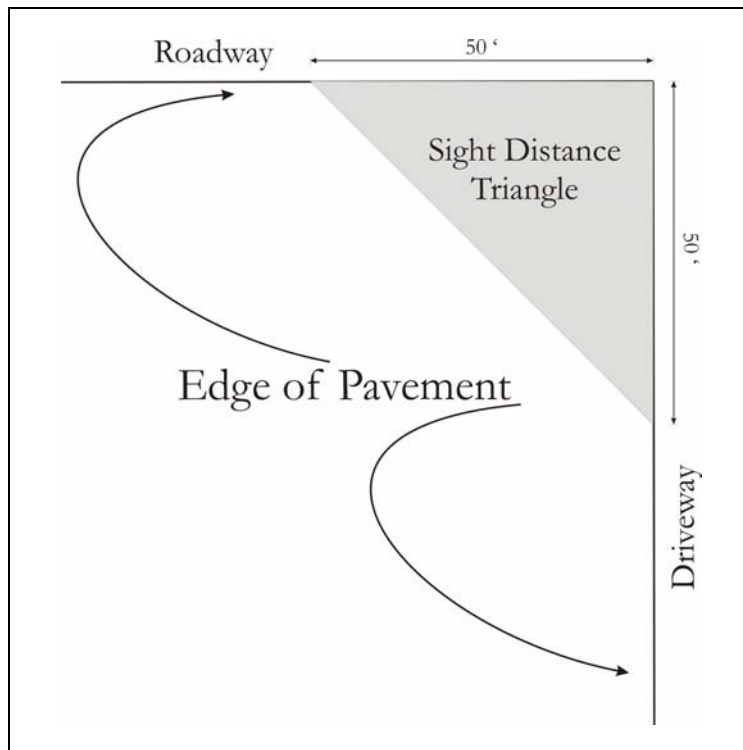
Shrub: A woody plant deciduous or evergreen that generally exhibits several erect, spreading stems with a bushy appearance growing to a height of no more than fifteen (15) feet.

Shrub Small: A shrub with a minimum height of one (1) foot at planting.

Shrub Medium: A shrub with a minimum height of two (2) feet at planting.

Shrub Large: A shrub with a minimum height of three (3) feet at planting.

Sight Distance Triangle: A straight line with unobstructed view measured fifty (50) feet along the edge of pavement lines from their points of junction with points being three (3) feet above the pavement edge.



Sight Distance Triangle

Slope: The deviation of a surface from the horizontal.

Topping: An inappropriate practice of making heading cuts through a stem more than two (2) years old that drastically reduces tree height, destroys tree architecture and results in discoloration, decay of the cut stem, or death of the tree.

Water Feature: A stormwater management structural measure such as a stormwater retention pond, bioretention, forebay, or landscape garden pond that is wet permanently or intermittently during rain events and contains landscaping that is hydric or water tolerant.

Section 35.1-25.1.4 General Regulations.

- (a) Landscaping within a sight distance triangle shall not include any evergreen trees, and shall not include shrubs exceeding three (3) feet in height above the ground at maturity. Tree limbs within a sight distance triangle shall be raised to ensure visibility for motor vehicle safety, but in no case shall tree limbs be raised more than sixteen (16) feet above the ground.
- (b) When a determination of the number of trees or shrubs results in a fraction, any fraction shall be rounded up to count as one (1) tree or shrub.
- (c) Existing vegetation within the development area and at least three (3) inches in caliper that meets the requirements of the Landscaping Ordinance may be preserved and may be used to meet all or part of the landscaping requirements.
- (d) Removal of healthy trees eighteen (18) inches or greater in caliper is discouraged. For each healthy tree eighteen (18) inches or greater in caliper that is retained within the development area a credit of twelve (12) trees shall be given towards meeting the requirements of the Landscaping Ordinance.
- (e) All landscaped areas shall be covered with an appropriate ground cover, mulch, or decorative landscape stone. Where mulch or decorative landscape stone is used, it shall be installed to a depth of not less than two (2) to three (3) inches. The use of gravel and/or riprap is prohibited.
- (f) All slopes shall be covered with an appropriate ground cover. The use of riprap for ground cover on any slope visible from a public or private street, or residential district is prohibited.
- (g) All retaining walls visible from any public or private street or residential district shall be constructed of segmental block, brick, treated wood, stone or stamped and colored concrete that gives the appearance of brick or stone. Retaining walls that consist of creosote materials are prohibited.

Retaining walls of other materials are permitted provided that they are supplemented with landscape material as follows:

1. Retaining walls less than eight (8) feet in height, one (1) large evergreen shrub per three (3) linear feet of wall.
 2. Retaining walls eight (8) feet in height or greater, one (1) large evergreen shrub per three (3) linear feet of wall and one (1) ornamental tree per twenty (20) linear feet of wall.
- (h) All trees used to satisfy the requirements of the Landscaping Ordinance shall be in accordance with the City's Master Tree List. The City's Master Tree List shall be maintained by the City's Urban Forester. The City's Urban Forester may approve the substitution of a different species of tree in circumstances of disease, drought, or overhead utility lines.
- (i) No tree, shrub and/or ground cover contained on the Invasive Alien Plant Species of Virginia list as maintained by the Department of Conservation of Virginia (DCR) and the Virginia Native Plant Society may be planted or used to satisfy any portion of the Landscaping Ordinance.
- (j) Where the planting of trees that have a height at twenty (20) year maturity would interfere with overhead utility lines, the Urban Forester shall as part of the site development plan approval require the substitution of a tree with lesser maturity height or allow placement of trees in a manner that will not interfere with overhead utility lines, provided that the general intent and purpose of the Landscaping Ordinance is met.
- (k) All disturbed areas not used for operations, including slopes shall be landscaped at the rate of twenty (20) trees per acre. Required trees may be any combination of deciduous or evergreen and may be placed in creative groupings.
- (l) Parking garages are subject to the regulations of Section 35.1-25.1.9, Foundation Plantings only.

Section 35.1-25.1.5 Landscaping Plan Required.

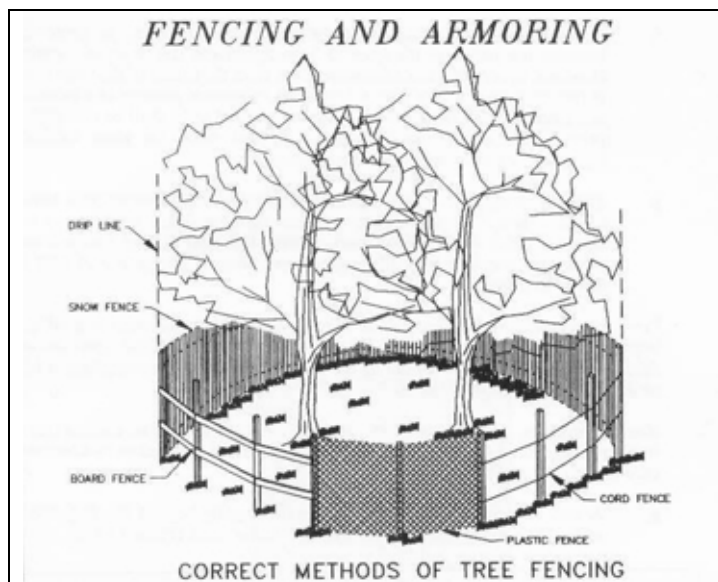
When required as part of a preliminary site development plan, a landscape plan shall indicate the following information:

- (a) The location, size, height at planting, and botanical name of all required landscaping.

- (b) The location, size, and botanical name of any existing landscaping proposed to be used or required to satisfy any portion of the Landscaping Ordinance.
- (c) The dimensions of all required landscape islands.

When required as part of a final site development plan, a landscape plan shall indicate a, b and c above and the following additional information:

- (d) A tree protection detail as specified in “STD & SPEC 3.38, Tree Preservation and Protection,” in the 1992 edition of the Virginia Erosion and Sediment Control Handbook for all landscaping proposed or required to be preserved to satisfy the requirements of the Landscaping Ordinance.



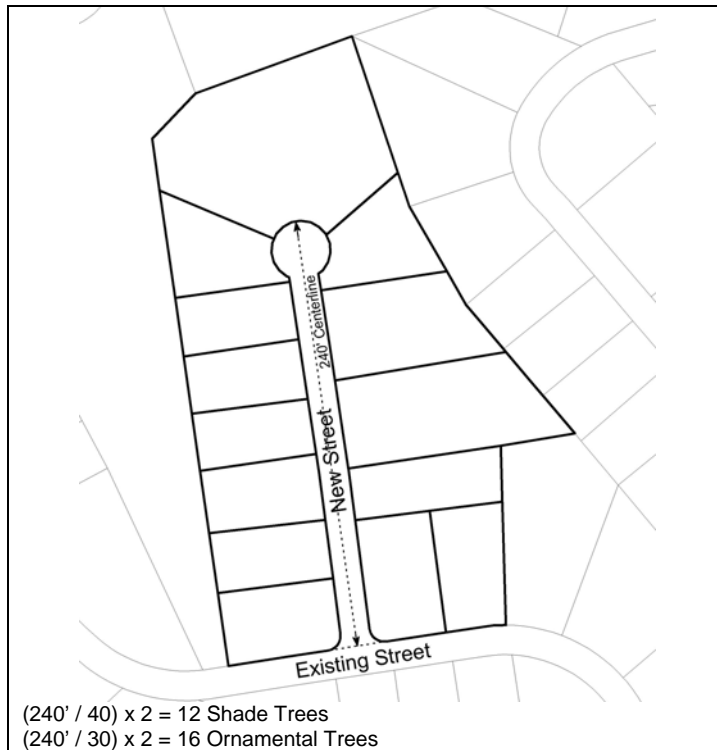
Tree Protection Detail

- (e) A planting detail for all trees, shrubs, and ground cover used to satisfy the requirements of the Landscaping Ordinance.
- (f) A planting, fertilization, and watering schedule for all trees, shrubs and or ground cover used to satisfy the requirements of the Landscaping Ordinance. The schedule shall cover a period of one (1) year after installation of the required landscaping.
- (g) A description of soil amendments necessary to support the growth of all required trees and shrubs.

Section 35.1-25.1.6 Residential Street Tree Landscaping.

In the event of the subdivision of any land for residential purposes where it is proposed that new City streets will be dedicated or existing City streets will be extended to serve said subdivision the following landscaping requirements apply:

- (a) Shade type trees shall be planted at the rate of two (2) trees for every forty (40) feet of the new street centerline or Ornamental trees may be substituted at the rate of two (2) trees for every thirty (30) feet of the new street centerline.



Calculation of Street Trees for New Residential Subdivisions

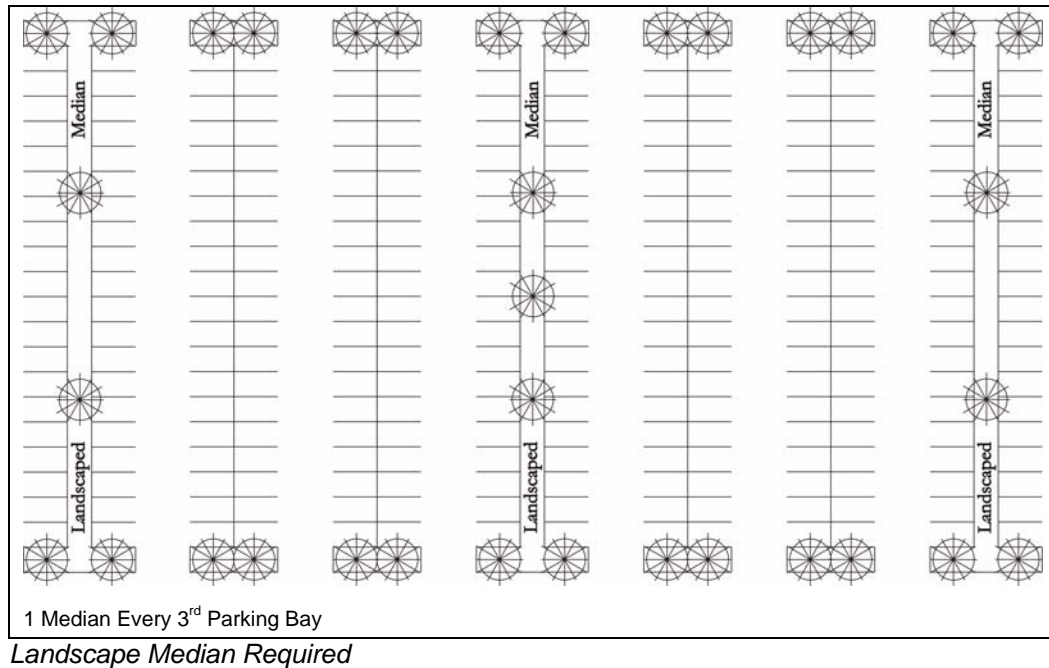
- (b) Required landscaping shall be placed within the proposed right of way and no required landscaping shall be planted on any private property.
- (c) Trees shall be placed in a manner to prevent interference with driveways, drainage areas and/or utilities.
- (d) In order to prevent damage to trees, required landscaping installed prior to completion of construction of the subdivision shall be protected as provided in Section 35.1-25.1.5(d).
- (e) Prior to the acceptance of any new road by the City the developer shall do one (1) of the following:
 - 1. Install all required street trees.

2. Post a performance bond for the amount of all required street trees, related materials and installation cost.
3. At the discretion of the developer, a cash payment may be made to the City for all required street trees, related material and installation cost. At such time a cash payment is made to the City, installation of the required landscaping becomes the responsibility of the City's Urban Forester and landscaping shall be installed within a reasonable time period.

Section 35.1-25.1.7 Parking Area Landscaping.

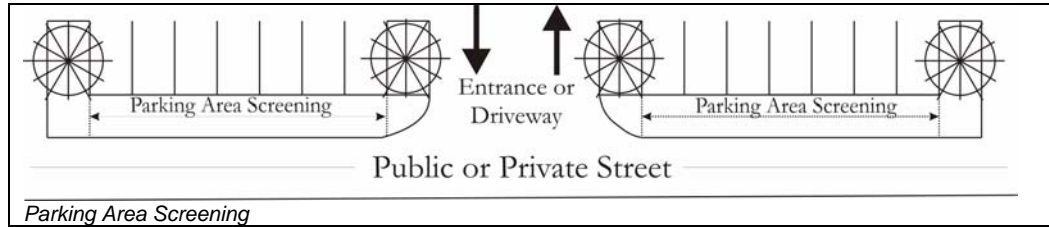
Parking areas are subject to the following landscaping standards:

- (a) All parking rows and parking bays shall be capped with a landscaped island.
- (b) Parking areas with less than two hundred (200) parking spaces.
 1. One (1) shade type tree for every eight (8) parking spaces, planted within landscape islands, reasonably dispersed within the parking area so that no more than fifteen (15) to twenty (20) parking spaces exist between landscape islands.
 2. One (1) medium shrub for every one (1) parking space shall be planted within landscape islands containing required trees.
- (c) Parking areas with more than two hundred (200) parking spaces.
 1. One (1) shade type tree for every eight (8) parking spaces, planted within landscape islands, reasonably dispersed within the parking area so that no more than fifteen (15) to twenty (20) parking spaces exist between landscaped islands.
 2. One (1) medium shrub for every one (1) parking space shall be planted within landscape islands containing required trees.
 3. One (1) landscape median six (6) feet in width for every three (3) parking bays shall be installed. The landscape median shall be required to extend the full length of the parking bay and shall include twenty (20) percent of the required parking area landscaping.



- (d) Wheel stops, curbing, or other barriers shall be provided to prevent damage to required landscaping by vehicular traffic. Protection shall be installed to prevent soil erosion from the landscape area.
- (e) Parking Area Screening.
 - 1. In all instances where parking areas are adjacent to public or private streets, a screen with a minimum height of three (3) feet at time of installation shall be provided along the entire length of the parking area exclusive of driveways and entrances. The minimum planting width for the screen shall be six (6) feet.
 - 2. For the purposes of this section, any of the following combination of landscaping and berms may be used to fulfill this requirement:
 - (a) One (1) large shrub per three (3) feet of street frontage.
 - (b) Earthen Berm with three (3) small shrubs per three (3) feet of street frontage.
 - (c) Earthen Berm with one (1) medium shrub and one (1) small shrub per three (3) feet of street frontage.
 - (d) Any combination of a, b or c above.

3. Earthen berms shall vary in width and height and shall be curvilinear in form and provide a gentle tie-in with the existing grade. Average height of earthen berms used to satisfy this requirement shall be three (3) feet in height.



(f) **Parking Area Exceptions.**

1. Where the primary use of a parking area is for the sale of motor vehicles, recreational vehicles, trailers, boats, tractors, or mobile homes the required parking area landscaping and parking area screening may be disbursed in a reasonable manner so as not to interfere with display and maintenance.

Section 35.1-25.1.8 Street Trees for Multi-Family, Commercial and Industrial Districts.

- (a) For all multi-family, commercial and industrial developments, street trees are required at the rate of one (1) shade tree for each forty (40) feet of street frontage or in the case where overhead utility lines prohibit the planting of shade trees one (1) ornamental tree for each twenty (20) feet of street frontage.
- (b) Required street trees shall be planted along the property line that fronts the street and shall not be planted within the public right-of-way or within any utility easements.
- (c) Street trees within the site distance triangle may be raised to allow for visibility.

Section 35.1-25.1.9 Foundation Plantings.

- (a) All sides of multi-family, commercial, or industrial buildings, which front on a public or private street and are visible from an adjacent residential district, shall be landscaped with foundation plantings as follows:
 1. One (1) ornamental tree per twenty (20) linear feet of building.
 2. One (1) large shrub per three and one half (3.5) linear feet of building.

- (b) Foundation plantings may be placed in collective groupings along the perimeter of the building for which required.

Section 35.1-25.1.10 Utility Screening

- (a) Loading areas, refuse areas, storage yards, stormwater management ponds, HVAC equipment, water vaults, Reduced Pressure Zone (RPZ) devices or other objectionable items shall be screened from view of any public or private street, or any adjacent residential district.
- (b) Stormwater Management Facilities intended for display as a water feature or naturalized planting area are exempt from screening requirements.
- (c) Screening may be accomplished by a combination of existing evergreen vegetation, walls, fences, earthen berms and new evergreen vegetation appropriate to screen the equipment or activity. The required height of screening at installation shall be sufficient to screen the equipment or activity.
- (d) The use of chain link fence as the sole method of screening is prohibited. Where it is deemed appropriate by the property owner or developer for security purposes, it shall be screened from view as listed in paragraph c above.

Section 35.1-25.1.11 Buffering

- (a) In all instances where a commercial district, industrial district, or any parking area is located adjacent to any residential district, or a multi-family residential district is adjacent to a one or two family residential district, a vegetative evergreen buffer shall be established on the property for which said buffer is required.
- (b) Where required, the planting area for buffering shall be a minimum of twenty (20) feet in width extending along the entire length of the development area and shall generally be required along the property line unless topographic or other considerations would make it more effective located back from the property line.
- (c) The vegetative buffer shall consist of a staggered evergreen tree line with a baseline filler of medium height evergreen shrubs. The evergreen tree material shall be a minimum of four (4) feet in height at time of planting. The evergreen tree line shall be planted in rows fifteen (15) feet apart and staggered ten (10) feet on center. In lieu of the baseline filler an earthen berm may be used. The earthen berm shall vary in width and height and

shall be curvilinear in form and provide a gentle tie-in with the existing grade. Average height of earthen berms used to satisfy this requirement shall be three (3) feet in height.

- (d) Where appropriate existing vegetation may be used to satisfy this requirement. Existing vegetation may be required to be supplemented with additional evergreen material in order to meet the buffering requirements. The need for additional evergreen material shall be determined during the site development plan review process.

Section 35.1-25.1.12 Tree Canopy Requirements

- (a) For purposes of this section, “tree canopy” shall include all areas of coverage by existing plant material exceeding five (5) feet in height, and the extent of planted tree canopy at maturity shall be based on the published reference text, Manual of Woody Landscape Plants, fifth edition, 1998, by Michael A. Dirr.
- (b) The planting or replacement of trees on a development site shall be required to the extent that, at a twenty (20) years, minimum tree canopies will be provided as follows:

Zoning District	Minimum Tree Canopy Required
B-1, B-2, B-3, B-4, B-5, B-6, I-1, I-2, I-3	10% of entire development site
R-4, R-5	10% of entire development site
R-3	15% of entire development site
R-C, R-1, R-2	20% of entire development site

- (c) Existing trees that are to be preserved may be included to meet all or part of the tree canopy requirements.
- (d) Existing trees infested with disease or structurally damaged to the extent that they pose a hazard to person or property, or to the health of other trees on site, shall not be included to meet the tree canopy requirements.
- (e) Tree Canopy requirements do not replace, or negate full compliance with, the requirements of any other section of the Landscaping Ordinance. However, if planting of landscaping required by this Ordinance meets or exceeds the tree canopy requirement, no further planting of trees or replacement of trees is required by this section.
- (f) In areas zoned B-4, Central Business District, B-6, Riverfront Business District or where the City Planner determines that Crime Prevention through Environmental Design (CPTED) principles apply, the City Planner, in consultation with the City’s Urban Forester, may allow the off-site planting of up to ninety-nine (99) percent of the required street trees, parking area screening, buffering and foundation plantings. Off-site

planting areas shall be within the City Limits and in such location as approved by the City Planner.

(g) The following shall be exempt from the tree canopy requirements.

1. Dedicated K-12 School sites.
2. Playing fields and other non wooded recreation areas
3. Designated Wetlands
4. Other facilities and uses similar in nature as determined by the City Council.

Section 35.1-25.1.13 Installation.

- (a) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association and the Virginia Society of Landscape Designers, or the Virginia Chapter of the American Society of Landscape Architects.
- (b) All landscaping used to satisfy the requirements of the Landscaping Ordinance shall meet the specifications and standards of the American Association of Nurserymen.
- (c) Any tree used to satisfy the requirements of the Landscaping Ordinance shall be a minimum of one and one half (1.5) inches in caliper at time of planting.
- (d) Required landscaping shall be installed in accordance with an approved site development plan. Required landscaping shall be completed prior to occupancy or the property owner or developer may provide a guarantee in a form acceptable to the Zoning Administrator that ensures installation.
 1. A guarantee for required landscaping shall be in an amount equal to one hundred twenty percent (120%) of the cost of all plants, related materials and installation. Amount is subject to approval of the City's Zoning Administrator and Urban Forester.
 2. All required landscaping shall be installed, inspected, and approved within six (6) months of acceptance of the guarantee.
 3. During any water emergency declared by the governing body in which the use of water is restricted, the Zoning Administrator may permit the delayed installation of required trees, plants or screening materials. In this event, the property owner shall be required to obtain and or maintain a guarantee. After declaration of the water emergency ends, the property owner shall be required to install all trees, plants, screening and related materials within six (6) months.

Section 35.1-25.1.14 Maintenance

- (a) After the Zoning Administrator determines that all landscaping required by this Chapter is complete and in healthy condition, the property owner shall be responsible for the ongoing protection and maintenance of all required landscaping in a manner consistent with the approved site development plan.
- (b) In the event required landscaping as shown on the approved site development plan is dead or damaged, it shall be replaced by the property owner after notification by the Zoning Administrator. The Zoning Administrator may accept a guarantee in the amount of one hundred twenty percent (120%) of the cost of all damaged or dead plants, related materials and installation.
- (c) All required trees and shrubs as shown on the approved site development plan shall be allowed to grow until maturity and shall not be removed, unless a suitable replacement is provided that meets the standards of this Ordinance and shown on an approved landscaping plan. Pruning techniques shall be done in accordance with the standards adopted by the American National Standards Institute (ANSI), A300, Part 1, Standard 1 and the International Society of Arboriculture (ISA). Topping of trees is inappropriate. Any tree that dies as the result of topping shall be replaced by the property owner.

Section 35.1-25.1.15 Stormwater Quality Credit

All landscaping required by this Ordinance or preserved as shown on an approved site development plan, shall receive a credit towards meeting water quality requirements as required by the plan approving authority.

Section 35.1-25.1.16 Alternate layout of landscaping.

The City Planner with the concurrence of the Planning Commission may approve an alternative layout to landscaping required by this Ordinance provided that the spirit and intent of the Ordinance are preserved and the goals of Section 35.1-25.1 are assured.